

# Director's Rule 20-93

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## I. INTRODUCTION

### A. Contents of the Rule

In Downtown zones, additional floor area may be permitted above the **base floor area ratio** permitted in the zone when the project includes either: (a) certain public benefit features or (b) a transfer of development rights. The provisions of the Seattle Municipal Code, Chapter 23.49 applicable in each Downtown zone list the features that are eligible for a bonus in that zone (see Chart A, below), and give the **bonus ratio** and/ other parameters governing the FAR that may be obtained for each feature. They also describe the types of development rights transfers that can take place to and from lots in each zone.

Parts II and III of this Rule contain detailed standards and criteria for all the public benefit features that are reviewed solely by the Department of Construction and Land Use (DCLU). The review criteria for major retail stores and performing arts theaters in the Downtown Retail Core zone, which are Council Conditional Uses, are not covered by this Rule, but are found in Section 23.49.096 of the Land Use Code.

Part II outlines the general standards and criteria for all public benefit features except housing and **Landmark Performing Arts Theaters (LPATs)**. Part III states the intent of each public benefit feature, sets forth basic standards, and includes design guidelines when necessary to provide the basis for review of certain public benefit features.

Part IV is comprised of child care and human services bonuses. These two categories of bonuses are administered primarily by the Department of Housing and Human Services.

Part V of the Rule contains the standards for the use of housing as a public benefit feature. This part of the Rule is administered primarily by the Department of Housing and Human Services. It also contains the provisions for the transfer of development rights from **low-income housing TDR sites**, and regulations for combined lot development.

Part VI of the Rule describes transfers of development rights from landmark structures, which are administered by the Seattle Landmarks Preservation Board. Transfers within the same block do not need guidelines more specific than those in the Code, and are not discussed in this Rule.

Part VII contains the regulations designed to encourage the preservation and use of **landmark performing arts theaters** through a TDR program, pursuant to Ordinance 116513.

Part VIII of the Rule describes the procedures for reviewing all the public benefit features except housing and explains how this review fits into the permit process.

**CHART A****APPLICATION OF FLOOR AREA BONUSES BY ZONE \***

PUBLIC BENEFIT FEATURE	DOWNTOWN OFFICE CORE-1	DOWNTOWN OFFICE CORE-2	DOWNTOWN RETAIL CORE	DOWNTOWN MIXED COMMERCIAL	DOWNTOWN MIXED RESIDENTIAL	DOWNTOWN HARBOR FRONT-2
Cinema	B	B	B	L	L	-
Shopping Atrium	M	M	B	M	-	-
Shopping Corridor	M	M	B	M	-	-
Retail Shopping	M	M	-	M	M	-
Parcel Park	B	B	-	L	-	-
Residential Parcel Park	-	-	-	-	L	-
Street Park	-	M	-	M	L	-
Rooftop Garden -Street Accessible	B	B	-	B	-	-
Rooftop Garden -Interior Accessible	B	B	B	B	-	-
Hillclimb Assist	M	M	-	M	-	-
Hillside Terrace	M	M	-	M	M	-
Harborfront Open Space	-	-	-	-	-	B
Sidewalk Widening	M	M	M	M	M	-
Overhead Weather Protection	M	M	M	M	M	-
Voluntary Building Setback	-	-	-	-	M	-
Sculptured Bldg. Tops	B	B	-	-	-	-
Short Term Parking	M	M	M	M	-	-
Small Site Development	B	B	B	M	L	-
Human Services	B	B	B	L	L	-
Child Care	B	B	B	L	L	-
Performing Arts Theater	B	B	-	-	-	-
Landmark Performing Arts Theater	B	B	-	-	-	-
Museum	B	B	-	L	-	-
Urban Plaza	M	M	-	-	-	-
Transit Tunnel Access	M	M	M	-	-	-
Public Atrium	B	B	M	B	L	-
Housing	B	B	M	B	L	-

**Council Conditional Use**

Major Retail Store	-	-	B	-	-	-
Performing Arts Theater	-	-	B	-	-	-

- Does not apply
- B Bonused throughout zone
- M Bonused in accordance with map only (maps are found in Chapter 23.49, Seattle Municipal Code)
- L Limited locations

\* In the case of bonuses for public benefit features that may be provided off-site, the zone referred to is the one in which the development receiving the bonus FAR is located.

## B. Types of Criteria

The standards for the public benefit features covered in Parts III and IV of this Rule are divided into three parts: **bonusable area** standards, basic standards, and design guidelines. This division is based on the amount of flexibility permitted from the standards, which are listed here in order from least to most flexible.

1. The bonusable area standards generally set the minimum and maximum size of a public benefit feature that is eligible for a bonus. These standards cannot be modified. If a feature does not meet the minimum size, it does not qualify for a bonus; if it is larger than the maximum size, the additional area is not bonusable. The bonusable area standards may also contain standards about the location of a feature that cannot be modified, such as a prohibition against bonusing more than one hillclimb assist on a block.
2. The basic standards cover the area and dimensions of a feature, requirements for retail uses, and set hours of operation. The basic standards are intended to outline the main characteristics that provide the public benefit of a feature. While they are more flexible than the **bonusable area** standards, the basic standards may be modified only through a special review, done as part of the analysis of the project's Master Use Permit. It must be demonstrated that the modification of the standard will result in a better project than would be possible if the basic standards were strictly applied.
  - a. A modification to a basic standard may be made only to meet one or more of the following criteria:
    - (1) To provide additional amenities for public use while meeting the intent of this Rule and Downtown land use policies for the public benefit feature being provided;
    - (2) To enhance the street environment, encourage pedestrian activity, and increase the comfort of pedestrians;
    - (3) To preserve existing housing, and/or increase the level of services for downtown residents;
    - (4) To preserve a desirable existing architectural and siting pattern in an area;
    - (5) To preserve designated landmarks or other historically or architecturally significant structures;
    - (6) To maximize unusual site characteristics, such as views and relationship to surroundings.
  - b. If special review of basic standards is sought, the entire proposed development shall be considered when evaluating the modification. In exercising

this discretion, the Director shall modify requirements only to the extent such modifications further the objectives identified above.

- c. As a result of the special review, the Director may require the alteration of other elements of the project as a condition for modifying the basic standards. If the Director conditionally grants a modification, the applicant shall have the option of meeting the conditions of the modification, or following the development standards of the applicable zone.
3. Design guidelines are intended to give an idea of how a feature should be designed, while allowing flexibility to apply the guidelines to individual projects. While numbers in the design guidelines are approximate, significant deviations, such as taking a landscaping requirement from 25 percent to 5 percent, may not be permitted by the Director, or may only be permitted through the modification process described in Section 2 above.

## **II. GENERAL CONDITIONS FOR PUBLIC BENEFIT FEATURES, EXCEPT HOUSING AND LANDMARK PERFORMING ARTS THEATERS**

The following general conditions apply to all public benefit features listed in this Rule, except housing and **landmark performing arts theaters**, unless a specific exception is made.

### **A. Installation and Time Commitment**

1. Public benefit features shall be installed no later than the times shown on Chart B. If a feature is not installed when required, no more of the building can be occupied until the feature is provided. The Director may extend the time allowed when installation is not feasible due to construction scheduling or other good cause, but in no case shall the Final Certificate of Occupancy be issued until all features have been provided.
2. Except as provided for specific features in this Rule, public benefit features shall remain for the life of the building which includes the additional floor area. A public benefit feature may be diminished or discontinued only if the additional floor area allowed in return for the specific feature is permanently removed; if the feature is replaced with another approved public benefit feature of at least equivalent floor area value; or for certain features, by buying out the equivalent floor area value of the feature when permitted by this Rule (See Sections 23.49.034 and 23.49.035 of the Land Use Code.)
3. When changes to the design or features of an approved public benefit feature are proposed, the changes must be approved by the Director of DCLU.
4. If a certain public benefit feature space (human service uses, child care centers, retail shopping, cinemas, performing arts theaters other than LPATS, major retail stores or museums), for which additional floor area was granted, is not occupied once the final Certificate of Occupancy for the building has been issued, it shall be made available on an interim basis, not to exceed six months, for events for non-



profit organizations, such as community and charitable groups, under the following conditions:

- a. The space shall be made available for both day and evening use.
- b. The space shall be made available on a first-come, first-served basis to community/charitable organizations.
- c. There shall be no charge for use of the space.
- d. Availability of the space and the contact persons shall be made known to community/charitable groups by a least two of the following methods: newspaper articles, radio announcements, flyers to organizations, and contacts with umbrella organizations such as the Seattle Department of Housing and Human Services, the Downtown Human Services Council, the Seattle Community Council Federation, and the Department of Neighborhoods.
- e. The space shall be maintained in a finished state.

**B. (reserved for future use)**

**C. Maintenance**

Unless otherwise stated in the specific conditions for a public benefit feature, the property owner shall maintain all elements of bonused features, including but not limited to landscaping, parking, seating and lighting, in a safe, clean, and well-maintained condition.

**D. Combination of features**

1. Most projects which use the floor area bonus system will incorporate several public benefit features. Unless specific prohibition is made regarding the use of two different features, it is the intent to encourage the integration of various features within a project design. Examples of combined features would be the integration of an open space such as a hillside terrace or urban plaza with transit tunnel access, or a parcel park with a museum or a public atrium.
2. In the event of a conflict between the requirements of one public benefit feature and another when features are combined in one project, the Director may resolve the conflict by varying the design guidelines to yield compatibility, if possible, or by varying the basic standards, provided the intent of each feature is fulfilled.
3. The Director may permit a bonused public open space to satisfy a portion of the common recreation requirement for residential uses. The space shall meet the area and dimension standards of the Code for common recreation area, and the design of the space, location and means of access, and hours of operation shall meet the needs of building residents in order for it to qualify.

## **E. Art in bonused public spaces**

1. It is the intent of this Rule to include a broad definition of art, and to encourage high-quality, imaginative interpretations of the various media. To this end, works of art may include art that is merely decorative, or is both decorative and functional. Over time, new materials and art forms may be developed. Therefore, such innovations in form and media are included in the definition of “works of art.”
2. To make a positive contribution to the identity of the public space, artwork shall be required in the following bonused public spaces:
  - Shopping Atrium
  - Shopping Corridor
  - Parcel Park
  - Residential Parcel Park
  - Green Street (formerly called Street Park)
  - Rooftop Garden, Street Accessible
  - Rooftop Garden, Interior Accessible
  - Hillside Terrace
  - Harborfront Open Space
  - Performing Arts Theater
  - Urban Plaza
  - Public Atrium
3. Guidelines
  - a. When more than one of the listed bonused public spaces is incorporated in a project, the requirement for artwork may be filled in a variety of ways, such as providing one major work as a focal point, or several smaller works, as appropriate to the design of the public spaces, and commensurate with the amount of bonused public space.
  - b. Artwork shall include but not be limited to two or three dimensional works in all media, such as oil or acrylic on canvas, textiles, photography, ceramics, wood, paper, metal, stone, etc. Artwork may also include fountains, mobiles, special wall or paving surfaces, bass-reliefs, mosaics, murals, landscaping elements, and other decorative features. Interdisciplinary projects and collaborations are encouraged, as are works involving sound, touch and other senses.
  - c. The artwork shall be an integral part of the design of the public space and shall be compatible in bulk, scale, design, texture, color, and shape with the space in which it is located.
  - d. The artwork shall be located so that it is clearly visible to people using the public space. Wherever possible, the art should be visible from the street. If it is not visible from the street, it shall be visible from primary circulation

paths adjacent to or through the public space. However, it should not impede circulation in the open space.

- e. The setting for the artwork shall be designed in such a way as to provide comfort and amenity and accommodate people viewing the art by incorporating such features as steps, ledges, benches, and other seating or provide rails or other architectural features to lean against.
- f. The property owner shall be responsible for the maintenance of all art features for the life of the building.
- g. The selection of artists to work as members of design teams along with building architects, landscape architects and/or engineers is encouraged.

#### 4. Artwork Plan Process

- a. In order to encourage the integration of the artwork into the overall design of the building, the Master Use Permit application shall include a Preliminary Artwork Plan which will be submitted to the Seattle Arts Commission who will review it, advise the applicant and the DCLU Director and make recommendations on the proposal. The Preliminary Artwork Plan shall include the following elements:
  - Concept Statement - Outline of the art proposal in terms of proposed location(s) and type(s) of art, e.g., sculpture, two-dimensional work, interdisciplinary process, etc.
  - Proposed budget
  - Proposed process for selection of artist(s)
  - Schedule for implementation
- b. Before a building permit for the project is issued, a final Artwork Plan shall be submitted by the applicant to the Seattle Arts Commission, who will review it and make recommendations to the DCLU Director. The Final Artwork Plan shall be a refinement of the Preliminary Artwork Plan, and include the following elements:
  - Selected Artist(s)
  - Drawings indicating location, size, placement of artwork
  - Technical documents outlining in detail the materials and method of attachment of the proposed art
  - Maintenance, safety and security considerations
  - Final budget
  - Final schedule for installations
- c. The final Certificate of Occupancy shall not be issued until the artwork is complete and installed.

## 5. Removal or Modification of Art in Bonused Spaces

- a. Proposed alterations to or removal of artwork in bonused public spaces shall be reviewed by the Seattle Arts Commission before being made. The Commission will advise the DCLU Director if, in its opinion, the proposed alterations would constitute destruction of the artwork, and would thus require replacement artwork to satisfy the bonus requirements. The Director may require replacement artwork.
- b. Proposals for replacement artwork in bonused public spaces shall be reviewed by the Seattle Arts Commission, who will make a recommendation to the DCLU Director. The recommendations will be based on the applicability of the new artwork, taking into account the original Final Artwork Plan and any changed conditions since the original installation of the artwork. The Director may approve, condition or deny the placement of the replacement artwork.

## F. Landscaping and furnishing

1. When landscaping is required for a bonused public open space, it shall be subject to the review and approval of the Director. It may include a wide variety of living trees, shrubs, ground covers, and seasonal plantings, as well as fountains and planters. Art required in Section E may be located in a landscaped area. All required landscaping shall be located in permanently installed beds or planters, or in large containers, which, while movable, cannot be readily removed.
2. Required seating provided in bonused public spaces shall be available for use by the general public at all times that the space is open. Other seating, and/or tables, may be reserved for customers of restaurants or other uses, provided that the space used for the reserved seating does not exceed the maximum area set forth in the criteria for each benefit feature. The location, size and delineation of the area used for reserved seating shall be subject to the review and approval of the Director. In addition to the required and reserved seating, additional chairs and tables may be provided for use by either the general public or a retail use, as long as this seating is available to the general public at all times the space is open.
3. Tables, with or without umbrellas, shall not be considered in the coverage limits for bonused public open spaces.

## G. Safety

1. In order to increase the safety of all bonused public open spaces, these spaces shall be designed to avoid creation of isolated areas, and to maintain lines of sight into the space from streets and major pedestrian walkways whenever possible.
2. Trees and shrubs shall be planted and maintained so that they do not promote a public safety problem, interfere with normal lines of sight, or negate the effects of nighttime security lighting.

3. Lighting shall be provided for bonused public open spaces which are open at night.

## **H. Identification**

Each bonused public space shall be clearly marked with the City's public open space logo and shall state in large letters that the space is open to the public and the hours that it is open.

## **I. Recording of conditions**

1. All applicable conditions related to the public benefit feature including but not limited to time commitment, maintenance, public access, and hours of operation shall be recorded at the King County Department of Records and Elections by the Department of Construction and Land Use with the deed to the property on which the additional floor area is used.
2. The leases for human services, child care centers, cinemas, retail shopping uses, performing arts theaters and museums shall contain a clause which provides that the Director shall be notified by the property owner or property manager if the use no longer occupies the leased space.

## **III. GENERAL PUBLIC BENEFIT FEATURES**

### **A. Cinema**

#### **1. Intent**

Cinemas are intended to enliven an area with activity during the evening hours, as well as maintain public entertainment uses downtown. Cinema design should promote activity on the street.

#### **2. Bonusable area**

- a. In order to be eligible for a bonus, a cinema shall have at least 150 seats and be at least two thousand square feet in size.
- b. The maximum bonusable area of a single cinema or multiple cinemas on a lot shall be fifteen thousand gross square feet including the lobby area(s) used exclusively for the cinema. Lobby areas shall not exceed a maximum of four square feet per seat or two thousand square feet, whichever is less. Other areas directly and solely associated with the operation of the cinema, including restrooms, projection rooms and storage areas, shall also be bonused.

#### **3. Area and dimensions - Design Guidelines**

- a. The seating area of the cinema shall be expressly designed for the viewing of motion pictures. Floor slopes, ceiling heights, projection area, screen size, and heating, ventilation, air conditioning and electrical systems shall

be adequate to meet the viewing requirements of the audience relative to the size of the auditorium.

- b. The lobby area shall be enclosed and weather protected, with a minimum horizontal dimension of approximately twenty feet.
- c. The lobby area shall be used solely in connection with the operation of the cinema, except that the lobby may be combined with another public benefit feature, provided that the space is not double counted in bonus calculations.

#### 4. Location and access

##### Basic Standards

- a. A lighted sign displaying titles of movies which are playing shall be required on at least one street frontage of the structure containing the cinema.

##### Design Guidelines

- b. Cinema entrances shall be directly accessible and highly visible from a street or public open space.
- c. The seating area of the theater may be at sidewalk grade, or one story above or below sidewalk grade.
- d. To avoid creating large expanses of street frontage with limited visual interest or activity, cinema street frontage shall be limited to approximately twenty-five percent of the total street frontage of the lot or sixty feet, whichever is less, on streets where street level uses are required. On other Class I Pedestrian streets, cinema frontage shall be limited to approximately sixty feet. Any street level area of the cinema exceeding the limits must be separated from the street by another use. There shall be no frontage limitations on Class II Pedestrian Streets.

#### 5. Special conditions

##### Basic Standards

- a. To ensure the desired level of evening activity, cinemas shall be open to the public for motion picture viewing a minimum of six evenings a week.
- b. Cinemas which receive a bonus shall not be used as adult motion picture theaters.
- c. The developer shall secure at least a 15 year lease from a motion picture theater operator, within two years of the date that the first Certificate of

Occupancy is issued for the project using the bonus, or when the final Certificate of Occupancy for the project is issued, whichever is first.

## **B. Shopping Atrium**

### **1. Intent**

Shopping atriums provide enclosed, weather protected public spaces that increase and enhance shopping activity while maintaining the continuity of retail activity and visual interest along the street in concentrated shopping areas. The shopping atrium should provide a large enclosed space suited for public gatherings and events where shoppers can rest, relax and enjoy surrounding activity.

### **2. Bonusable area**

- a. In order to be eligible for a bonus, a shopping atrium shall be at least four thousand square feet in size.
- b. The maximum bonusable area shall be fifteen thousand square feet.
- c. In order to achieve the full bonus ratio stated in the Land Use Code, the minimum height of the principal space shall be forty feet. If the height of the principal space is less than forty feet, the bonus ratio for the entire atrium shall be reduced to six. In no case shall the height of the principal space be less than twenty feet or two stories, whichever is greater.

### **3. Area and dimensions**

#### **Basic Standards**

- a. The area of a shopping atrium shall be defined as either principal space, containing the main public focus of the atrium; or accessory space.
- b. The minimum area of the principal space shall be 2,400 square feet.
- c. The area of accessory space eligible for a bonus shall not exceed forty percent of the total bonusable area of the atrium. Additional accessory space shall be permitted, but not bonused.

#### **Design Guidelines**

- d. Within the principal space, there should be no obstructions which reduce any horizontal dimension to less than approximately thirty feet.
- e. The minimum horizontal dimension of any accessory space shall be approximately twelve feet, except that areas immediately abutting the principal space at the same floor level and with no obstructions separating them shall have no minimum horizontal dimension. The minimum height shall be approximately twelve feet.

- f. The entire floor area of the principal space must be at an elevation within approximately four feet above or below the average grade of the sidewalk where the main entrance to the shopping atrium is located. The principal space shall all be at one level, with minor adjustments of levels permitted provided that the elevation change between the highest and lowest points does not exceed approximately four feet.
- g. Accessory space must be directly accessible by escalator, walkway, or stairs to the principal space. Any accessory space located farther than thirty feet horizontally from the edge of the principal space shall not be bonused unless it connects the atrium to an Avenue. All areas of bonused accessory space should have visual access to the principal space.
- h. The area for which a floor area bonus is granted shall be clear and unobstructed by walls or other elements which exceed approximately four feet in height, except that the following elements shall be permitted in the accessory space: columns; escalators; artwork; and free standing retail kiosks that are a maximum of about ten feet in height, do not individually exceed approximately 250 square feet in size, and in total cover no more than approximately ten percent of the total bonused area.

#### 4. Access and street orientation

The location of a shopping atrium shall be highly apparent from the street and easily accessible and inviting to pedestrians. Wherever possible, the atrium and its connections to the street should be designed to improve overall pedestrian circulation on the block.

##### Basic Standards

- a. A pedestrian entrance with direct access from the sidewalk shall be provided on each street frontage of the atrium.
- b. Any uses on the perimeter of the shopping atrium that also have frontage on a street shall have pedestrian access from the street.

##### Design Guidelines

- c. The main entrance to the atrium should be at sidewalk grade. It should have a minimum clear width of approximately fifteen feet and minimum clear height of approximately fifteen feet. The entrance may be completely open or may be enclosed with clear transparent doors and glazing.
- d. For lots with frontage on two Avenues, the atrium should provide a clear direct connection between the Avenues.
- e. The maximum street frontage of the shopping atrium space, including entrances, but not including retail uses, on any one street should be approximately sixty feet.

## 5. Retail requirements and hours of operation- Basic Standards

Shopping atriums provide a weather protected, convenient and attractive atmosphere for shoppers, and are intended to promote a greater intensity of retail activity within shopping areas by increasing the available frontage on public areas for retail use.

- a. Frontage equivalent to at least seventy-five percent of the perimeter of each level of the entire area bonused as atrium space shall be occupied by uses which qualify for the Retail Shopping bonus (Section F). All of these uses shall have direct access to the atrium.
- b. The atrium shall be open to the public from 7 AM to midnight every day except Sunday, when it shall be open at least from one hour before and after established shopping hours for the major retail core department stores. The uses required in subsection 5.a above shall be open to the public at least five days a week for at least six hours per day.

### Special Conditions

- c. The developer shall secure lease(s) for the retail shopping area within two years of the date that the first Certificate of Occupancy is issued for the project using the bonus, or when the final Certificate of Occupancy is issued, whichever is first.

## 6. Landscaping and furnishings

The landscaping and furnishings of the shopping atrium should provide amenities for shoppers and add interest and activity to the space while allowing for flexibility in how the space is used, especially for public gatherings and events.

### Basic Standards

- a. Up to 10 percent of the area of the atrium, or 500 square feet, whichever is less, may be used by restaurants or other uses for reserved seating.

### Design Guidelines

- b. Landscaping shall be provided within the principal space of the shopping atrium. Landscaping features shall occupy a minimum of approximately ten percent to a maximum of approximately twenty percent of the total area of the principal space.
- c. Art shall be incorporated as set forth in the general conditions of this Rule.
- d. A minimum of approximately one lineal foot of seating for every sixty square feet of bonused atrium space shall be provided in the principal space. The arrangement of seating shall enhance the quality of the space, allow for informal gatherings and avoid disruption of major paths of pedes-

trian circulation. Up to fifty percent of the required seating may be movable.

## 7. Lighting - Design Guidelines

To improve the quality of the space, support interior landscaping and increase the overall sense of openness, access to natural light shall be provided for the principal space through one of the following features or combination of features:

- A minimum of twenty-five percent of the roof area above the principal space shall have skylights; or
- A minimum of twenty-five percent of the perimeter of the principal space shall have clerestory windows a minimum of eight feet in height; or
- The principal space of the atrium shall be visible from adjacent sidewalks through clear, untinted glass walls for a minimum height of twenty-five feet and a length equal to approximately twenty-five percent of the perimeter of the principal space.

## C. Shopping Corridor

### 1. Intent

Shopping corridors are intended to provide weather protected through-block pedestrian connections and retail frontage where retail activity and pedestrian traffic are most concentrated downtown. Shopping corridors create additional “streets” in the most intensive area of shopping activity, and are intended to complement street front retail activity. The location and size of shopping corridors are limited to avoid the creation of a pedestrian network independent of pedestrian movement along the street. Shopping corridors that connect Avenues and are generally located in the middle of the long blocks in the retail core area will provide additional retail frontage and improve pedestrian circulation without detracting from sidewalk activity. Where possible, shopping corridors should be aligned with existing pedestrian crosswalks or entries to other pedestrian corridors on adjacent blocks.

### 2. Bonusable area

- a. The maximum bonusable area shall be 7,200 square feet.
- b. The bonus value of the corridor may be increased by 25 percent when the corridor meets the provisions of Section 7 below.

### 3. Area and dimensions - Basic Standards

The corridor should provide a pleasant space for pedestrian movement and shopping and should be designed so the connection between Avenues is apparent.

- a. The minimum height of the corridor shall be twelve feet, except that open overhead walkways which cover not more than 5 percent of corridor area may have a height clearance of ten feet.
- b. The maximum width of the corridor shall be thirty feet, with a minimum width of twenty feet that is free and clear of all obstructions, including columns.

#### 4. Location and access

Entrances shall be highly visible from the street, accessible, and inviting. It should be clear to pedestrians that the corridor provides a throughblock connection.

##### Basic Standards

- a. Shopping corridors shall connect two Avenues.
- b. No more than two shopping corridors shall be bonused on a block.
- c. Entrances to the corridor must be at the same grade as the sidewalk. Level changes between entrances shall be permitted to accommodate changes in existing grade.

##### Design Guidelines

- d. The minimum distance from any street property line which is parallel to a corridor should be 120 feet and the minimum distance between corridors should be 60 feet. These dimensions shall be measured along the Avenue property line from the inside face of the corridor walls.
- e. Entrances shall have a minimum height of approximately twelve feet and shall be the full width of the corridor. Entrances may be completely open, or may be enclosed with clear, transparent doors and glazing.

#### 5. Retail requirements and hours of operation - Basic Standards

- a. Because shopping corridors should function as retail streets, frontage equivalent to at least seventy-five percent of the perimeter of the shopping corridor shall be occupied by uses which qualify for the retail shopping bonus (Section D). These uses shall have entrances directly onto the corridor.
- b. Because they are an element of pedestrian circulation, shopping corridors shall be open to the public from at least 7 AM to midnight, seven days a week. The uses required in subsection 5a above shall be open to the public at least five days a week for at least six hours per day.

### Special Conditions

- c. The developer shall secure lease(s) for the retail shopping area within two years of the date that the first Certificate of Occupancy is issued for the project using the bonus, or when the Final Certificate of Occupancy is issued, whichever is first.

### 6. Facade treatment and furnishings

The facades and furnishings of shopping corridors should be designed to enhance shopping and add to pedestrian comfort; however, the design and location of furnishings, art, and kiosks should not detract from the corridor's principal function as a through-block connection.

#### Basic Standards

- a. Art shall be incorporated as part of the corridor as set forth in the general conditions of this Rule.
- b. Temporary kiosks, displays, art exhibits, and retail use of the corridor may be permitted provided that use, access, and circulation through the space by the general public is not obstructed. Temporary structures are those that are movable or designed to be easily dismantled. In no case shall any temporary use of the space reduce the circulation path to a width of less than ten feet.

#### Design Guidelines

- c. The same transparency requirements and blank wall limitations that apply to Class 1 Pedestrian Streets in the zone in which the shopping corridor is located should be applied to the corridor walls.
- d. Approximately one lineal foot of seating, either permanent or movable, shall be required for every sixty square feet of bonused corridor area. The arrangement of seating should not obstruct pedestrian movement through the space.

### 7. Additional bonus for natural light

The quality of the corridor area can be improved through access to daylight through skylights or clerestory windows. The bonus value of the entire shopping corridor shall be increased by twenty-five percent when the corridor meets the following provisions for natural light, additional height, and landscaping.

#### Basic Standards

- a. Natural light may be provided as follows:
  1. At least twenty-five percent of the roof area above the corridor shall have skylights; or

2. A minimum of forty percent of the perimeter dimension of the corridor shall have clerestory windows a minimum of four feet in height; or
  3. A combination of features 1 and 2 above maybe provided.
- b. When the additional bonus for natural light is used, 25 percent of the total length of the corridor shall be at least 18 feet high, and the minimum height of the remainder of the corridor shall be at least 12 feet, Figure A.

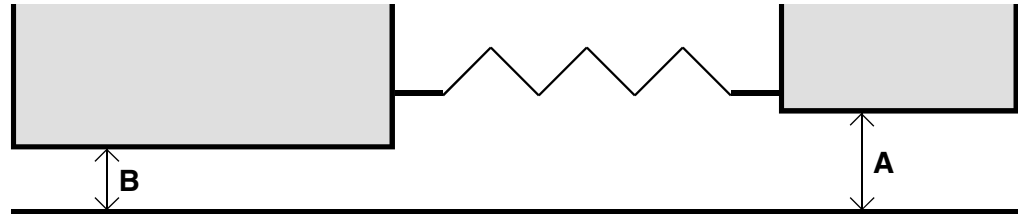


Figure A Minimum Height for Skylighted Corridor

- A** = Minimum height: 18' over 25% of length of corridor  
**B** = Minimum height: 12'

- c. A minimum of fifteen percent of the corridor shall be landscaped and include seasonal plantings.

#### **D. Retail Shopping**

##### **1. Intent**

The intent of the retail shopping bonus is to generate a high level of pedestrian activity on major downtown pedestrian routes and on bonused public open spaces. While retail shopping uses help ensure that major pedestrian streets are active and vital, a limit to the amount eligible for a bonus is set in each zone, in order to maintain the dominance of the retail core as the center of downtown shopping activity.

##### **2. Bonusable area**

The maximum bonusable area per lot shall be 0.5 FAR or 15,000 square feet, whichever is less.

##### **3. Eligible uses - Basic Standards**

Retail sales and service uses and entertainment uses shall be eligible for a retail shopping bonus. Customer service offices such as airline ticket agencies, travel agencies, and branch banks shall not be eligible.

#### 4. Street orientation - Basic Standards

Bonused retail shopping uses should be located close to the sidewalk in order to add to street interest and activity. Bonused shopping uses shall meet the access and location requirements for required street level uses for the zone in which they are located, as well as all facade transparency and blank wall limitations for Class I Pedestrian Streets in the zone.

#### 5. Hours of operation - Basic Standards

Bonused uses shall be open to the public at least five days a week for at least six hours per day.

#### 6. Special Conditions - Basic Standards

The developer shall secure lease(s) for the retail shopping area within two years of the date that the first Certificate of Occupancy is issued for the project using the bonus, or when the Final Certificate of Occupancy is issued, whichever is first.

### **E. Parcel Park**

#### 1. Intent

Parcel parks are protected enclaves of open space which provide quiet retreats from surrounding activity in the intensely developed employment areas of downtown. While relatively small as open spaces, they shall be flexible in design to accommodate passive recreational activities as well as temporary events and small public gatherings. Parcel parks are also intended to provide a limited amount of retail uses for the convenience of park users, and to add to the interest and activity of the space.

#### 2. Bonusable area

- a. In order to be eligible for a bonus, a parcel park shall be at least three thousand square feet in size.
- b. The maximum bonusable area shall be seven thousand square feet.
- c. Only one parcel park which has access from a blockfront shall be eligible for a floor area bonus on that blockfront. A maximum of two parcel parks shall be bonused on any individual lot.

#### 3. Area and dimensions

The area counted for bonus purposes should be one contiguous space, with elements such as landscaping, fountains, seating and public art counted as part of the contiguous space.

##### Basic Standards

- a. The area of the parcel park shall be defined as either principal space, containing the main focus of the park, or accessory space.

- b. The minimum area of the principal space shall be two thousand square feet or sixty percent of the total park area, whichever is greater.

#### Design Guidelines

- c. Dimensions of the principal space should generally not be less than thirty feet.
- d. The principal space must:
  - (1) be directly accessible from the sidewalk,
  - (2) be within approximately three feet of average sidewalk grade at the primary entrance to the park,
  - (3) be no greater distance from the sidewalk than the width of the access to the park, and
  - (4) have no grade change, except as required for drainage.
- e. The accessory spaces of the park may be at different levels from the principal space and from each other, as long as they are physically and visually connected.

#### 4. Definition of street frontage

For the purposes of this section, street frontage shall be the maximum width of the parcel park measured parallel to the street, projected to the street property line, Figure A.

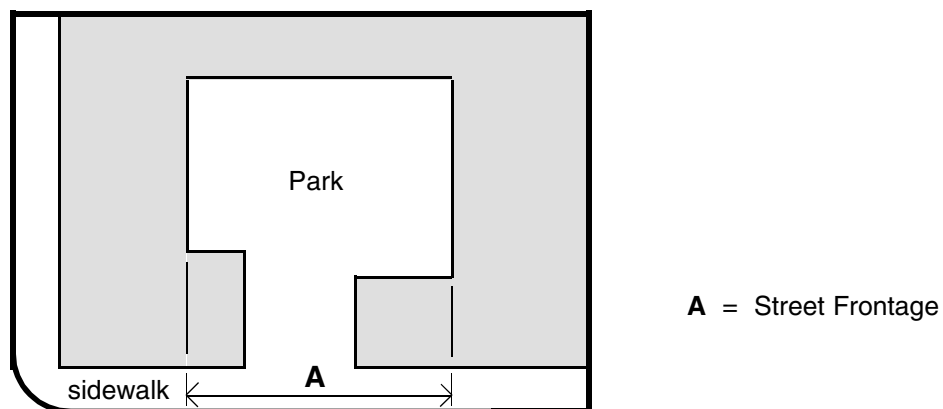


Figure A

## 5. Location and access

Parcel parks should be highly visible from adjacent sidewalks and public areas and have direct access to the streets on which they front. The primary visual and physical orientation of the park should be to streets with no greater than a five percent slope—generally to Avenues rather than east-west streets. Design of the space should also provide enclosure, and any disruption to the street wall and street level activity should be minimized through use of design elements such as walls, structures containing retail uses, low planters or benches, and seating.

### Basic Standards

- a. When a parcel park is located between the street and the principal building entrance, the major flow of pedestrians on the lot should not disrupt the passive nature of the park. The path from the street to the entrance shall be located to the edge of the park, and a fifteen foot wide area along this path shall not be bonused.

### Design Guidelines

- b. Where a parcel park has street frontage exceeding forty feet on more than one street, access shall generally be provided from both streets.
- c. All access to a parcel park shall generally be at least thirty feet from any intersecting streets.
- d. The location of a parcel park should maximize direct or reflected solar access and increase light and air to the public street environment. Preferable locations are to the south of tower development, and where the siting of the park would improve solar access to the sidewalk.
- e. Access to the parcel park may be provided by one opening to the sidewalk with a minimum width of approximately twenty feet, or two or more openings with a minimum width of approximately fifteen feet each.
- f. The maximum width of street frontage open to the street shall be approximately sixty feet, except where street level uses are required. Where street level uses are required, the maximum width shall be approximately forty feet, and other areas of the park must be physically separated from the sidewalk by a structure containing required street level uses, Figure B.

## 6. Street frontage

### Basic Standards

- a. The entire street frontage of a parcel park shall be exempt from street facade height requirements, except when the park is located on a corner and property line street walls are required on both streets.

- b. When exempt from facade height requirements, the street frontage of the park, other than access points, shall be separated from the sidewalk by a structure in conformance with street facade setback requirements with a minimum height of twelve feet. The purpose of the separation is to provide a sense of enclosure for the park and reduce disruption of the street facade.

#### Design Guidelines

- c. The design of the walls, uses, or other street elements, providing the required enclosure for the parcel park, shall provide a high degree of visual access for pedestrians at street level to the interior of the space to add interest to the street and increase the security of the space.
- d. Transparent materials or openings to permit views and light shall be required for walls enclosing the park along the street property lines. When a parcel park is separated from the street by a structure containing retail uses, the structure shall meet the requirements for street facades, except height, for the zone in which the park is located.
- e. On Class I Pedestrian Streets the total opening to the street should generally not exceed the maximum dimension of the park measured perpendicular to the street property line, Figure C.

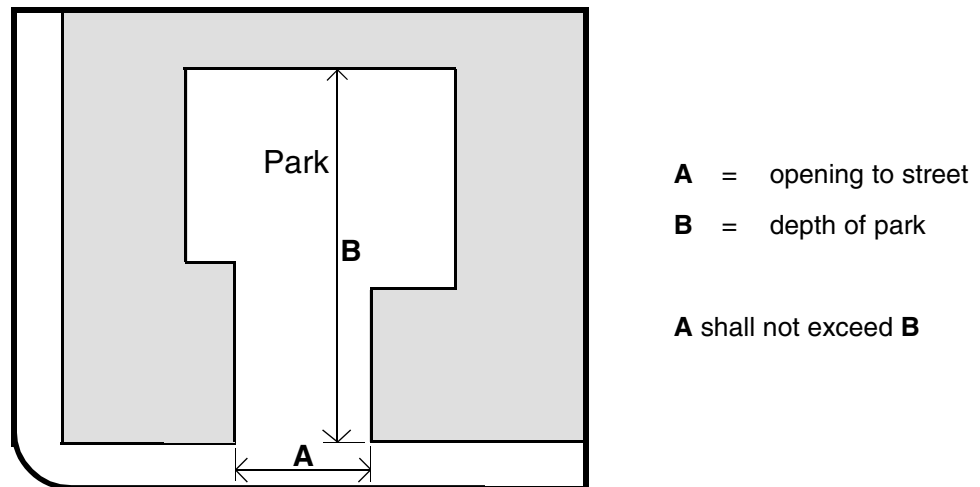


Figure C

#### 7. Retail requirements and hours of operation - Basic Standards

- a. For the convenience of people using the park and to provide interest and activity within the space, frontage equivalent to at least twenty percent of the perimeter of the parcel park shall be occupied by uses which qualify for the retail shopping bonus (Section D) and which have direct access to the park. Qualifying uses with frontage on a parcel park shall be eligible for the Retail Shopping bonus.

- b. The parcel park shall be open to the public from 7 AM to midnight every day. The uses required in Subsection 7.a above shall be open to the public at least five days a week for at least six hours per day.

#### Special Conditions

- c. The developer shall secure lease(s) for the retail shopping area within two years of the date that the first Certificate of Occupancy is issued for the project using the bonus, or when the final Certificate of Occupancy is issued, whichever is first.

### 8. Landscaping and furnishings

Landscaping in parcel parks should provide identity and interest for the space as well as reinforce the desired feeling of intimacy and quiet.

#### Basic Standards

- a. Up to ten percent of the area of the park, or 500 square feet, whichever is less, may be used for reserved seating for restaurants or other uses.

#### Design Guidelines

- b. A minimum of approximately twenty percent of the park area shall be landscaped, including seasonal plantings. A ratio of one tree for every eight hundred square feet of bonused park area shall be required. Each tree shall have a minimum caliper of two inches.
- c. Art visible from the street shall be incorporated as part of the park as provided in the general conditions of this Rule.
- d. A minimum of approximately one lineal foot of seating for every thirty square feet of park area shall be provided. A maximum of half of the seating may be portable.
- e. Nontransparent perimeter walls shall be decoratively finished or lined with continuous planting to a minimum height of approximately twelve feet, or to the top of the wall, whichever is less. Perimeter walls above twelve feet should be light in color to reflect light into the park.
- f. Temporary kiosks, displays, art exhibits and retail use of the park may be permitted provided they are portable and use of and access to the park by the general public is not precluded. The total area occupied by any temporary use for more than five days shall generally not exceed ten percent of the area of the park, in addition to the coverage permitted in Section 9.

### 9. Coverage of the parcel park - Design Standards

- a. The park should be open to the sky, except that a portion, not to exceed approximately twenty percent of the total park area, may be covered. This

coverage may occur as retail kiosks with a maximum size of approximately seventy-five square feet each, which cover no more than ten percent of the total park area; or as overhead weather protection. Kiosks and temporary overhead weather protection may be located within the principal space; no portion of the principal space may be permanently covered.

- b. At least 75 percent of permanent overhead weather protection shall be transparent. Temporary overhead weather protection in use for a maximum of six months per year is not required to be transparent.

## **F. Residential Parcel Park**

### **1. Intent**

Residential parcel parks are small landscaped areas which provide residential neighborhoods with public space for passive and active recreational activities.

### **2. Bonusable area**

- a. In order to be eligible for a bonus, a residential parcel park shall be at least 2,000 square feet in size.
- b. The maximum bonusable area shall be 12,000 square feet.
- c. Only one residential parcel park which has access from a block front shall be eligible for a floor area bonus on that block front. A maximum of two residential parcel parks shall be bonused on any individual lot.

### **3. Guidelines 3 through 6 for parcel parks (Section E) shall apply to residential parcel parks.**

### **4. Hours of operation - Basic Standards**

The residential parcel park shall be open to the public from 7 a.m. to midnight every day.

### **5. Landscaping and furnishings - Design Guidelines**

Landscaping in residential parcel parks shall provide a variety of spaces to accommodate the recreational needs of the surrounding neighborhood.

- a. A minimum of approximately sixty percent of the park area shall be landscaped. The landscaped area may be planted with grass or seasonal plantings or a combination of these elements. Up to 30 percent of the park area may be surfaced play area, which shall count towards the landscaping requirements.
- b. Art visible from the street shall be incorporated as part of the park as provided in the general conditions of this Rule.

- c. A minimum of approximately one lineal foot of seating for every sixty square feet of park area shall be provided. A maximum of half of the seating may be portable.
- d. Nontransparent perimeter walls shall be decoratively finished or lined with continuous planting to a minimum height of approximately twelve feet, or to the top of the wall, whichever is less. Perimeter walls above twelve feet should be light in color to reflect light into the park.
- e. Temporary kiosks, displays, art exhibits and retail use of the park may be permitted provided they are portable and use of and access to the park by the general public is not precluded. The total area occupied by any temporary use for more than five days shall generally not exceed ten percent of the area of the park, in addition to the coverage permitted in Section 6.

#### 6. Coverage of the parcel park- Design Standards

- a. The park should be open to the sky, except that a portion, not to exceed approximately twenty percent of the total park area, may be covered. This coverage may occur as retail kiosks with a maximum size of approximately seventy-five square feet each, which cover no more than ten percent of the total park area; or as overhead weather protection. Kiosks and temporary overhead weather protection any be located within the principal space; no portion of the principal space may be permanently covered.
- b. At least 75 percent of permanent overhead weather protection shall be transparent. Temporary overhead weather protection in use for a maximum of six months per year is not required to be transparent.

### G. Green Street

#### 1. Intent

A **Green Street** is a street right-of-way which is part of the street circulation pattern, and through a variety of treatments, such as sidewalk widening, landscaping, traffic calming, and pedestrian oriented features, is enhanced for pedestrian circulation and open space use. **Green streets** are designated on the Pedestrian Street Classification Map for the zone in which they are located. Improvements to **green streets** may qualify for a bonus when they are in accordance with the Green Street Director's Rule 11-93.

#### 2. Area and dimensions - Basic Standards

- a. Paving, landscaping improvements and other amenities specified in the **green street** concept plan for the public right-of-way shall be made along the entire **green street** frontage of the lot extending to the centerline of the street or other location approved in the **green street** concept plan.
- b. In lieu of development of the **green street**, voluntary agreements for fee payment to assist public development of the **green street** may be made, in

addition to any easement and/or maintenance agreement executed prior to issuance of the Master Use Permit.

3. Landscaping and furnishings - Design Guidelines

- a. To ensure an integrated design treatment throughout the length of the **green street**, landscaping requirements shall be as specified in the **green street** concept plan.
- b. Art shall be incorporated as set forth in the general conditions of this Rule. The nature of the artwork and locations shall be determined as part of the **green street** review process.

4. Special conditions - Basic Standards

- a. The area of the public right-of-way developed as a **green street** shall remain in the public domain.
- b. All areas separated from the vehicular right-of-way by a curb, and all nonstandard features located between curbs, shall be maintained by the property owner for the life of the project or as specified in the Master Use Permit decision.
- c. On **green streets** without a curb, a determination shall be made regarding the area for which the property owner will assume maintenance responsibility or the amount of reimbursement required to cover the cost to the City or other party for maintaining the area.

## H. Rooftop Garden—Street Accessible

1. Intent

Rooftop gardens are to provide additional opportunities to create open space for downtown workers in areas of concentrated office development without detracting from street level activity. Rooftop gardens also provide a visual amenity from both the street level and surrounding highrise development.

2. Bonusable area

- a. In order to be eligible for a bonus, a street accessible rooftop garden shall be at least 1,500 square feet in size.
- b. The maximum bonusable area shall be twenty percent of the total area of the lot.

3. Area and dimensions - Basic Standards

- a. Each rooftop garden shall have a “principal space” containing the main public focus of the garden, which satisfies the following requirements:

- (1) The minimum area of the principal space shall be 1,500 square feet.
- (2) The minimum horizontal dimension measured in any direction shall be thirty feet.
- (3) The elevation of the principal space shall not exceed six feet above or below the elevation of the sidewalk at the main entry of the rooftop garden. If the main entrance is from a bonused public open space, the elevation of the principal space shall not exceed four feet above or below the level of the bonused public open space at the entry.

#### Design Guidelines

- b. In order to provide light and air to the garden, and to provide views from the garden to other spaces, a minimum of approximately half of the perimeter of the garden must be open to view of an adjacent street or bonused public open space, excluding alleys, above a height of approximately three and one-half feet. Views from the principal area of the garden should be especially emphasized.
- c. Any area of a rooftop garden not defined as the principal space shall be subject to the following requirements:
  - (1) The elevation should not exceed approximately twelve feet above or below the principal space. Any single change of level between areas of the garden shall generally not exceed three feet.
  - (2) Any area that is more than three feet above or below the elevation of the principal space shall have a minimum dimension of approximately fifteen feet, Figure A.

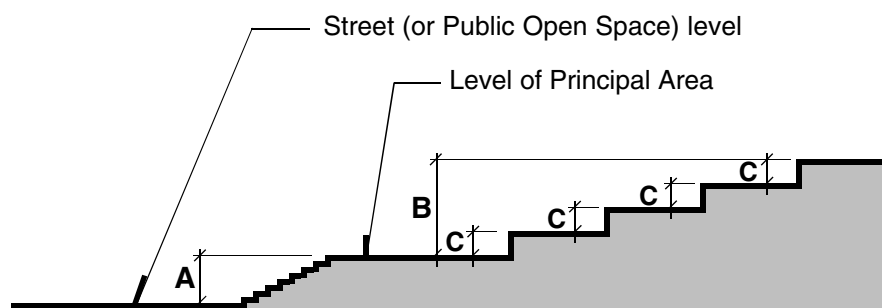


Figure A

- A** = Elevation of Principal Area:  
4' maximum above Public Open Space  
6' maximum above street
- B** = Maximum elevation above (or below) Principal Area:  
approximately 12'
- C** = Elevation change generally not to exceed 3'

#### 4. Street orientation - Design Guidelines

Rooftop gardens should be directly accessible and visible from an adjacent street or public open space. They should not create major disruptions in the continuity of the required street wall or in the pattern of street level activity. Where street level uses are required, street accessible rooftop gardens will only be permitted when the street level uses are provided below the garden in compliance with the requirements of the zone.

#### 5. Access and hours of operation - Basic Standards

Access to the rooftop garden should be apparent and easily reached from the street and should be designed to communicate to pedestrians that the space is available for public use.

- a. Direct access by stairs, ramps or mechanical assist shall be provided from a street or public open space to the principal space of the rooftop garden.
- b. The rooftop garden shall be open to the public from at least 7 a.m. to one hour after sunset, seven days a week.
- c. The path of access must have a minimum width of ten feet.

#### 6. Landscaping and furnishing

Landscaping of rooftop gardens should provide for the comfort and enjoyment of people in the space, as well as create a visual amenity for pedestrians and occupants of surrounding buildings.

##### Basic Standards

- a. Up to ten percent of the area of the garden, or 500 square feet, whichever is less, may be used for reserved seating for restaurants or other uses.

##### Design Guidelines

- b. A minimum of approximately twenty percent of the rooftop garden shall be landscaped, including seasonal plantings.
- c. A minimum of approximately one lineal foot of seating shall be provided for every thirty square feet of rooftop garden. A maximum of half of the required seating may be portable.
- d. Art shall be incorporated in conformance with the general conditions of this Rule.
- e. The rooftop garden should be open to the sky, except that a maximum of approximately ten percent of the total bonused area may be covered by permanent transparent overhead weather protection, or by temporary overhead weather protection which is used six months per year or less.

- f. Non-transparent perimeter walls, excluding railings, should be decoratively finished or lined with continuous planting on the garden side to a height of approximately fifteen feet, or to the top of the wall, whichever is less.
- g. Temporary kiosks, displays, art exhibits and retail use of the rooftop garden may be permitted provided that they are portable, and that use of and access to the space by the general public is not precluded. The total area occupied by any temporary use for more than seven days should not exceed approximately ten percent of the area of the garden in addition to the transparent overhead weather protection permitted in section 6.e.

## **I. Rooftop Garden—Interior Accessible**

### **1. Intent**

Rooftop gardens are to provide additional opportunities to create open space for downtown workers and visitors in areas of concentrated development without detracting from street level activity. Rooftop gardens will also provide a visual amenity from surrounding highrise development.

### **2. Bonusable area**

- a. In order to be eligible for a bonus, an interior accessible rooftop garden shall be at least 2000 square feet in size.
- b. The maximum bonusable area permitted shall be equivalent to thirty percent of the total area of the lot.

### **3. Area and dimensions**

#### **Basic Standards**

- a. The maximum elevation of the garden above grade shall be 240 feet.
- b. Each rooftop garden shall have a principal space satisfying the following requirements:
  - (1) The minimum size of the principal space shall be 1,000 square feet.
  - (2) The minimum horizontal dimension measured in any direction shall be twenty feet.
  - (3) There shall be no change in grade in the principal space, except as required for drainage.

#### **Design Guidelines**

- c. In order to provide light and air to the garden, and to provide views from the garden to other spaces, a minimum of approximately half of the perim-

eter of the rooftop garden must be open to view of a public street or open space, except alleys, above a height of approximately three-and-a-half feet. Views from the principal area of the garden should be especially emphasized.

- d. Any area of a rooftop garden not defined as principal space shall be subject to the following requirements:
  - (1) Any area that is more than three feet above or below the elevation of the principal space shall have a minimum dimension of approximately fifteen feet.
  - (2) Any single change of level between areas of a rooftop garden which have direct access to each other shall generally not exceed three feet.

#### 4. Access and hours of operation - Basic Standards

- a. The location of the rooftop garden shall be clearly identified so that access from the street is apparent to pedestrians. Prominent identification, hours of availability and directional signing shall be provided at the main entrance of the building where the rooftop garden is located and in each elevator of the building which serves the floor(s) where the garden is located.
- b. The location of the rooftop garden shall be directly accessible and clearly marked from the elevator lobby of the floor on which it is located.
- c. The rooftop garden shall be open to the public during the normal operating hours of the building.

#### 5. Landscaping, furnishing, and views

Requirements for landscaping and furnishings shall be the same as for street accessible rooftop gardens, Section H.6. In addition, transparent windbreaks shall be permitted around the edges of the rooftop garden to provide protection for seating or viewing areas.

### **J. Hillclimb Assist**

#### 1. Intent

Hillclimb assists are intended to aid pedestrian movement in areas of concentrated employment and pedestrian activity on lots located along steeply sloping streets.

#### 2. Bonusable area

Only one assist shall be bonused on a block.

### 3. Location

#### Basic Standards

- a. The hillclimb assist must provide a continuous direct route through the block as a connection between parallel Avenues. The corridor of the assist may be accessed directly from the street or from a bonused public open space.
- b. The hillclimb assist shall incorporate a mechanical feature, such as an escalator, for conveying pedestrians up at least eighty percent of the vertical distance between the elevations of the two avenues it connects.
- c. The mechanical conveyance of the assist shall be independent of the main internal circulation system of the project. Elevators shall not qualify as the required conveyance, except as a supplementary assist. Supplementary assists may be provided as part of the internal circulation system of the building to achieve complete access for the physically disabled.

#### Design Guidelines

- d. To promote the development of a network of hillclimb assists and to integrate individual assists with surrounding pedestrian circulation, the assist should be aligned with intersecting crosswalks, other through-block assists or existing pedestrian crosswalks, as well as linked with below grade transit stations whenever possible.

### 4. Area and dimensions - Design Guidelines

- a. Excluding mechanical conveyances, the minimum clear width of the corridor connecting the avenues should be approximately twelve feet.
- b. Covering shall be required over approximately three quarters of the path of travel between Avenues. Excluding mechanical conveyances, the minimum vertical clearance of any portion of the corridor shall be approximately ten feet. Outside the principal structure on the lot, covering should be transparent.

### 5. Access and hours of operation

Entrances to the route and the assist shall be clearly visible, inviting and directly accessible from the street.

#### Basic Standards

- a. Access shall be at the same grade level as the sidewalk or as at bonused public open space that opens directly onto the sidewalk.
- b. The assist shall be open and operating continuously during normal operating hours of the building.

### Design Guidelines

- c. Access points to the assist that are located within a structure should have a minimum height of approximately twelve feet and a minimum width of approximately fifteen feet.
- d. Entry points may be completely open, or may be enclosed with clear, transparent doors and glazing. Identification of public access to the assist should be prominently displayed.

### 6. Landscaping and furnishings - Design Guidelines

Landscaping treatment within the assist corridor should enhance the space without conflicting with pedestrian movement. The major feature of the hillclimb assist is the mechanical conveyance. This element should be visually prominent and, wherever possible, opportunities for views from the assist should be considered in the design and siting of the assist route.

- a. A minimum of approximately fifteen percent of the area of non-mechanical portions of the hillclimb assist route shall be landscaped.
- b. Art shall be incorporated within the corridor as set forth in the general conditions of this Rule.
- c. A minimum of approximately one lineal foot of seating for every 100 square feet of hillclimb corridor area shall be provided.

### 7. Lighting - Design Guidelines

To enhance the quality of the space and avoid the effect of a tunnel, the corridor should have as much access to natural light as possible. A minimum of approximately one quarter of the length of the corridor between Avenues shall receive natural light, either through transparent covering, windows or skylights.

## **K. Hillside Terrace**

### 1. Intent

Hillside terraces provide open spaces adapted to the steeply sloping areas of downtown. They are limited to lots with frontage on streets sloping ten percent or more, where their presence makes pedestrian movement more pleasant and better integrates development on sloping lots with the street environment.

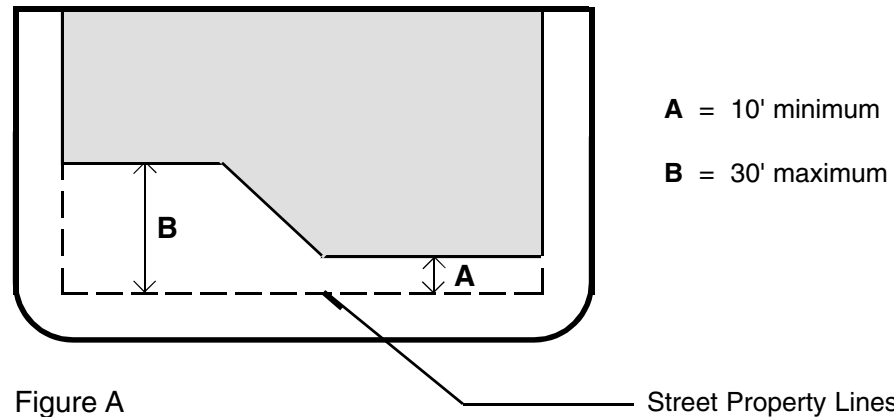
### 2. Bonusable area

- a. In order to be eligible for a bonus, the minimum street frontage of the hillside terrace shall be one-half block.
- b. The maximum bonusable area shall be 6,000 square feet.

### 3. Area and dimensions - Basic Standards

The hillside terrace should provide for continuous pedestrian movement along the entire street frontage. The depth of the terrace from the street should be limited to ensure a strong relationship between the building and the activity of the street. Area counted for bonus purposes must be one contiguous space, but may be on several different levels; landscaping, fountains, seating and art shall be allowed as part of the contiguous space.

- a. The minimum depth of the terrace measured at any point from the street property line shall be ten feet, Figure A.



- b. The maximum depth from the street property line shall be approximately thirty feet.

### 4. Access

Hillside terraces should function as much as possible as public extensions of the sidewalk onto private property. Direct connections from the sidewalk across the terrace to abutting development should be maximized, and pedestrian movement up and down the hillside made as easy as possible.

#### Basic Standards

- a. Approximately half of the sidewalk frontage of the hillside terrace should be accessible to pedestrians and should generally be within two feet above or below the elevation of the sidewalk for a minimum depth of approximately ten feet from the street property line.

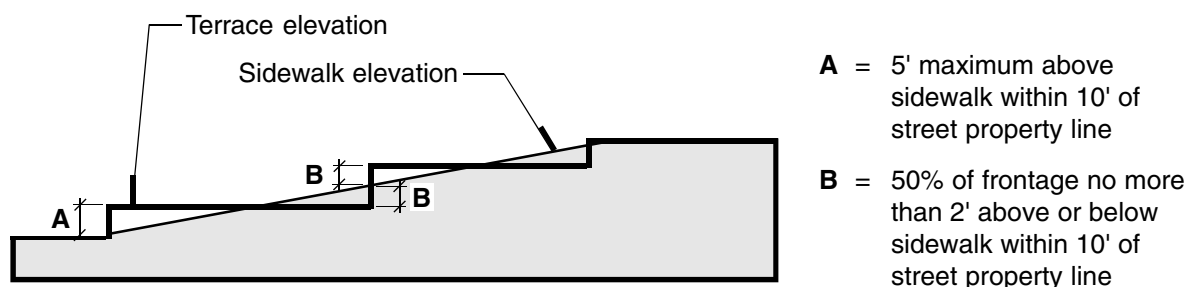


Figure B

### Design Guidelines

- b. No area of the hillside terrace within ten feet of the street property line shall be greater than approximately five feet above the sidewalk elevation, Figure B.
- c. If provided, solid, opaque railings should generally not exceed two feet above the level of any terrace area above the level of the abutting sidewalk, so that the space does not seem cut off from the sidewalk.
- d. Limited vehicular access to abutting development is permitted across the hillside terrace. Where lot frontage is no more than a half block, vehicular access is limited to a single two-way drive. Where frontage is greater than a half block, access may be either by a single two-way drive or two one-way drives. The driveways must meet Land Use Code standards for driveway width and location (Chapter 23.54). The area occupied by driveways shall not be bonused.
- e. Exceptions to basic standards 2a and 2b may be permitted to allow vehicular access to abutting development below a hillside terrace. When allowed, the Director shall determine that 1) a better relationship to the sidewalk results than when the access would occur across the hillside terrace and 2) continuous pedestrian movement is maintained over the access.

When this exception is allowed 1) pedestrian access from the sidewalk to the hillside terrace shall be provided along the street property line at points not to exceed approximately 60 feet apart and 2) stepping back or other modulation of walls, or softening the appearance of walls with landscaping, shall be provided so that no wall is greater than approximately five feet high within the ten feet of the sidewalk.

The size and location of vehicular access shall conform with subsection d above.

### 5. Retail requirements and hours of operation

To ensure that abutting development is integrated with the street environment and to encourage pedestrian activity and visual interest, street level uses are required along the edges of hillside terraces.

#### Basic Standards

- a. As an outdoor public amenity integrated with pedestrian circulation, hillside terraces shall be publicly accessible twenty-four hours a day, seven days a week. The uses required in subsection 4.a above shall be open to the public at least five days a week for at least six hours per day.

### Design Guidelines

- b. Frontage equivalent to about half of the length of the hillside terrace, measured along the street property line, shall be occupied by uses which qualify for the retail shopping bonus (Section D), and which are directly accessible from the terrace. Qualifying uses with frontage on a terrace shall be eligible for the retail shopping bonus. The requirement for retail uses may be modified where the hillside terrace is incorporated with another open space public benefit feature.

### Special Conditions

- c. The developer shall secure lease(s) for the retail shopping area within two years of the date that the first Certificate of Occupancy is issued for the project using the bonus, or when the final Certificate of Occupancy is issued, whichever is first.
6. Landscaping and furnishingsLandscaping and furnishings should improve the relationship between structures and the street, as well as provide for the comfort and visual enjoyment of pedestrians. Any obstructions separating the sidewalk area from the area of the terrace should be minimized.

### Basic Standards

- a. Up to fifteen percent of the terrace area, or 500 square feet, whichever is less, may be used for reserved seating for restaurants or other uses.
- b. Development abutting the hillside terrace shall meet the facade transparency requirements and blank wall limitations for Class I Pedestrian Streets for the zone in which the hillside terrace is located.

### Design Guidelines

- c. A minimum of approximately one quarter of the terrace area shall be landscaped, including seasonal plantings.
- d. Art shall be incorporated as part of the terrace as set forth in the general conditions of this Rule.
- e. A minimum of approximately one lineal foot of seating for every thirty square feet of terrace area shall be provided. The arrangement of seating and landscaping should enhance the quality of the space and allow a variety of passive recreational activities without obstructing pedestrian movement.
- f. Temporary kiosks, displays, art exhibits and retail use of the hillside terrace may be permitted provided use of and access to the terrace by the general public is not precluded and pedestrian movement is not obstructed.

## 7. Coverage of the terrace - Design Guidelines

Hillside terraces help increase light and air and provide a sense of openness within the street environment. Their location on east/west streets also affords opportunities for views of Elliott Bay. Some coverage of the space is permitted to increase comfort, encourage activity, and better integrate the space with abutting development; however, the overall character of the space as an extension of the outdoor sidewalk area should be maintained.

Hillside terraces should be open to the sky, except that a portion, not to exceed approximately fifteen percent, may be covered. This coverage may occur as permanent, free-standing elements, such as retail kiosks or pedestrian shelters, or as an overhead arcade or other form of permanent or temporary overhead weather protection associated with development abutting the terrace. At least seventy-five percent of all permanent overhead weather protection shall be transparent.

## L. Sidewalk Widening

### 1. Intent

Sidewalk widening is an extension of the sidewalk surface that is free of any obstructions. It is required and bonused on streets which do not meet the minimum sidewalk widths established for Downtown zones. The additional sidewalk width is intended to provide more comfortable pedestrian circulation, particularly near transit stops.

### 2. Bonusable area

The maximum bonusable area shall be the difference between the existing sidewalk width and the required sidewalk width.

### 3. Area and dimensions - Basic Standards

- a. The required setback shall extend the full street frontage of the lot at a depth equal to the difference between the existing width of the sidewalk and the required width specified in the general standards for Downtown zones. This area shall be free of all permanent obstructions and paved to match the adjoining sidewalk in the public street right-of-way, unless new paving of the entire sidewalk is proposed.
- b. Generally the additional sidewalk width shall be provided on private property. Widening the sidewalk by moving the curblin and narrowing the street may also be permitted, if approved by the Director of Engineering. If the widening into the right-of-way is done by a public agency such as Metro, no bonus shall be granted.
- c. When the sidewalk is widened onto private property, an easement for the area shall be recorded with the deed to the property at the King County Department of Records and Elections before the Master Use Permit for the project is issued.

- d. When the sidewalk is widened onto private property, the standards for street wall requirements and the permitted location of required street level uses shall be measured to the line established on private property by the required sidewalk width. However, the portions of the new building above 16 feet may extend over the new sidewalk to the property line, as long as no columns obstruct the sidewalk. The area may also be used in calculating the floor area ratio for the lot and be used to meet other development standards.

## **M. Overhead Weather Protection**

### **1. Intent**

Overhead weather protection is intended to improve pedestrian comfort along major pedestrian routes.

### **2. Bonusable area**

There shall be no minimum or maximum bonusable area provisions; all area of the overhead weather protection which meets the standards of sections 3 through 5 shall be bonusable.

### **3. Area and dimensions - Basic Standards**

- a. Overhead protection shall be permanent and non-retractable, with a minimum dimension of six feet from the building wall.
- b. At least half of the overhead weather protection shall be over the public right-of-way or a widened sidewalk on private property (see section L.)
- c. In order to qualify for a bonus, the entire area under the weather protection shall be unobstructed by structural elements such as columns.
- d. No covering shall extend more than ten feet or to a point within two feet from the curb line, whichever is less.
- e. The lower edge of the overhead weather protection shall be a minimum of eight feet and a maximum of twelve feet above the sidewalk for projections of six feet. For projections extending more than six feet from the structure, the lower edge of the weather protection shall be a minimum of ten feet and a maximum of fifteen feet above the sidewalk.
- f. The minimum length of street frontage covered shall be sixty feet.

### **Design Guidelines**

- g. The covering should be continuous on each street frontage where it is provided, except for interruptions for open spaces which qualify for a bonus, to provide space for power or street light poles, or to avoid blocking views from vehicles of traffic signs or signals.

#### 4. Street orientation- Basic Standards

Covering may be provided only over the sidewalk or over the sidewalk and an area immediately adjacent to the sidewalk that is at the same grade as the sidewalk and directly accessible along the entire street frontage and at both ends of the covered area.

#### 5. Lighting - Basic Standards

To maintain a pleasant sidewalk environment with good access to natural light and increased security after dark, the following transparency and illumination requirements shall apply:

- a. Skylights or other devices that admit natural light into the covered area shall be required where the covered area is more than six feet wide.
- b. When skylighting is required, the amount provided shall be equivalent to thirty percent of the total covered area. When skylighting is provided for at least seventy-five percent of the area of the covering, the bonus value shall be increased by fifty percent.
- c. Lighting shall be provided on the same time schedule as the municipal street lighting and provide a minimum average illumination on the sidewalk of five foot candles of light-intensity. The lowest foot candle value at any point shall not be less than 2.5.

### **N. Voluntary Building Setback**

#### 1. Intent

Voluntary building setbacks are intended to expand the landscaped area along street parks in mixed residential areas so the open space character of the street park is increased.

#### 2. Bonusable area

- a. To be eligible for a bonus the setback shall be located along a designated street park in the Downtown Mixed Residential zone.
- b. The maximum bonusable area shall be ten feet times the street frontage along the street park.

#### 3. Area and dimensions - Basic Standards

The setback area shall provide ample room for landscaping that will complement the street park and enhance its function as an open space.

- a. The minimum setback from the street property line along the street park shall be five feet for a minimum continuous distance of sixty feet.
- b. The maximum setback from the street property line eligible for a bonus shall be ten feet.

- c. The provisions in the DMR zone regarding Facade Transparency and Blank Facade Limits for Class I Pedestrian Streets shall apply to structures along street parks using the setback bonus.

#### 4. Landscaping and furnishings - Design Guidelines

Landscaping, paving and furnishings within the setback area are required and shall be coordinated with the improvements for the abutting street park.

- a. Temporary kiosks, displays, art exhibits and retail use of the setback area may be permitted, provided such features are compatible with the street park plan.
- b. The area occupied by any temporary use for more than five days shall not exceed approximately 10 percent of the setback area.
- c. Permanent coverage of the setback area shall not be permitted unless approved as part of the street park plan.

### **O. Sculptured Building Tops**

#### 1. Intent

Sculptured building tops are intended to promote visual interest and variety in the downtown skyline. They have the greatest impact in areas of downtown where the tallest buildings are permitted. A sculptured building top which modifies the silhouette of a building by reducing the area of the top floors reduces the appearance of the overall bulk of the building to produce a more interesting building form. As buildings increase in height, the more visible upper portion is shaped to appear increasingly slender and more ornamental. Mechanical equipment on the roof will also be enclosed and integrated into the design of the building as a whole.

#### 2. Bonusable area

- a. The bonusable area shall be the sum of all reductions on qualifying floors plus a 10,000 square foot automatic reduction granted when the provisions of subsection 3 are met.
- b. In order to qualify for a bonus, reductions in areas of floors to create the sculptured building top shall occur within the upper 30 percent of the total occupiable height of the structure.
- c. The maximum total reduced floor area eligible for a bonus shall be 30,000 square feet.

#### 3. Reduced floor area

Basic Standards

- a. The minimum reduction in building area within the upper 30 percent of the total occupiable building height, measured from the lowest street elevation, shall be as follows:
  - (1) The area of the highest enclosed floor shall be no greater than 80 percent of the area of the floor at the 70 percent height elevation.
  - (2) The minimum reduction in floor area between the highest occupiable enclosed floor and the 70 percent level shall be achieved through floor area reductions on no less than two floors.
  - (3) The maximum vertical dimension between any two floors on which area is reduced shall be 90 feet.
  - (4) No single reduction on a floor shall be less than 5 percent of the gross floor area of the floor below.
- b. In addition to the minimum reduction in 3a. above, all occupiable floors in the upper 30 percent of the structure reduced by at least 5 percent in area from the floor below shall qualify for calculation of bonusable area.

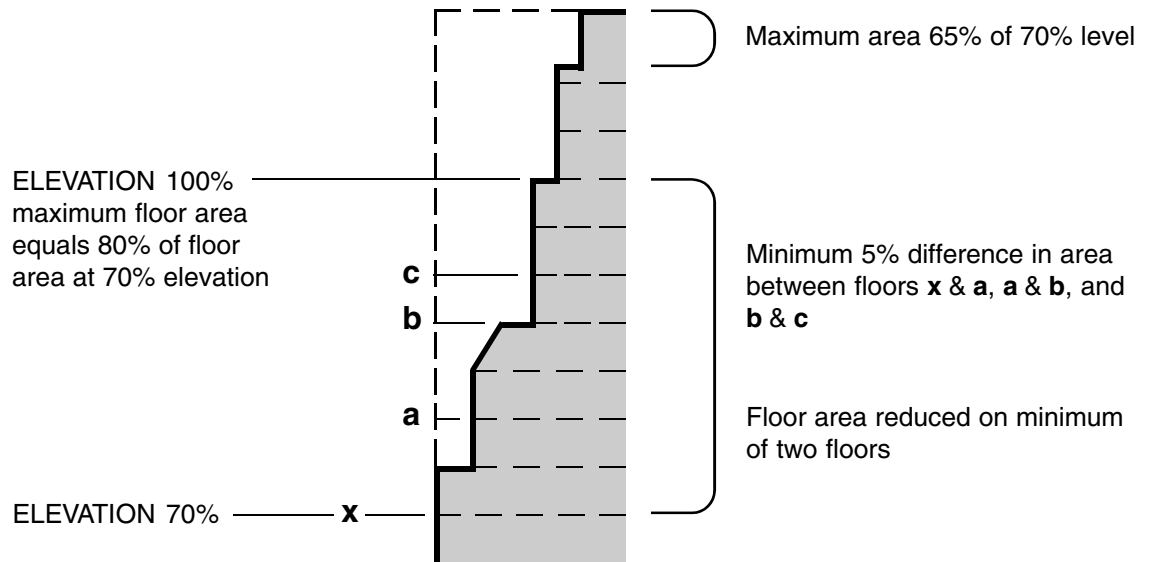
#### Design Guidelines

- c. On the floors reduced to create the sculptured building top, the perimeter walls shall be set back from the floor below on at least two sides of the structure for a total length equal to approximately half of the perimeter dimension of the floor below. The depth of the setback shall generally be no less than three feet.
- d. All mechanical equipment, equipment spaces, penthouses and other rooftop features above the last occupiable floor shall be enclosed. The design and materials of mechanical enclosures shall be architecturally integrated with the sculptured building top and the balance of the entire building.
- e. The area of enclosures of mechanical equipment higher than 25 feet above the last occupiable floor shall not exceed 65 percent of the floor area at the 70 percent level and shall have at least one setback in conformance with b. above or other modulation of the enclosure to add interest and create a more slender building silhouette.

#### 4. Calculation of reduced floor area - Basic Standards

- a. Reduced floor area shall be calculated for all occupiable floors which conform with the Basic Standards of subsection 3 above.
- b. The reduced floor area shall equal the sum of the differences between the area of each occupiable floor on which a 5 percent reduction from the floor immediately below occurs and the area of the floor at the 70 percent building height elevation. A 10,000 square foot automatic reduction

allowance shall then be added to this amount to reach the total reduced floor area.



## P. Short-Term Parking

### 1. Intent

Short-term parking is intended to aid the vitality of the retail core by providing needed parking for shoppers and visitors.

### 2. Area and dimensions - Basic Standards

- a. A minimum of twenty-five spaces in excess of the amount established by the short term parking requirement for uses on the lot shall be provided.
- b. Two hundred spaces in excess of the amount established by the short term parking requirement for uses on the lot shall be the maximum number bonused.
- c. The location, size, and dimensions of parking spaces and access shall meet the requirements of the Land Use Code.
- d. The area bonused shall include all areas used for short-term parking which is in excess of the amount of required short term spaces, plus associated vehicular circulation, but the total bonused area shall not exceed 375 square feet per parking space.

3. Street orientation - Basic Standards

Parking may be provided above or below grade, and shall be subject to the standards for the screening and location of parking for the zone in which the parking is located.

4. Access and hours of operation - Basic Standards

- a. Signs shall be located at all entrances to the parking which indicate the location of public short term parking and parking rates. These signs shall be visible and readable by drivers from the street.
- b. Parking shall be available to the public during normal hours of retail operations. The minimum hours shall be from 9:30 AM to 7 PM seven days a week.

5. Special conditions - Basic Standards

- a. A rate structure that favors short-term parking shall be required for the bonused spaces.
- b. Parking shall not be rented other than on an hourly basis. No monthly or daily discount shall be permitted.
- c. The property owner shall enforce regulations necessary to ensure that parking is available for short term use and submit an annual report to the Director indicating the fee structure, hours of operation, and utilization.

**Q. Small Lot Development**

1. Intent

The intent of the small lot bonus is to promote a greater variety of site sizes for new development, encourage smaller structures that will add diversity to downtown, reduce development pressures on older structures, and preserve a more human scale in the streetscape.

2. Bonusable area

- a. In order to qualify for the small lot bonus, a lot shall not exceed 15,000 square feet in size in DOC1, DOC2, DRC, and DMC zones.
- b. In order to qualify for a small lot bonus, a lot shall not exceed 7,200 square feet in size in DMR zones.
- c. Additional floor area shall not be permitted for a small lot if the area of any individual floor of the structure exceeds the lot size.

### 3. Special Conditions - Basic Standards

- a. In DMC zones, the small lot bonus shall only be granted for lots located on blocks which also contain DOC1 zoning and for lots located within view corridors designated by Section 23.49.024 of the Land Use Code.
- b. In DMR zones, the small lot bonus shall only be granted for lots which contain existing structures which are proposed to be expanded.

## **R. Harborfront Open Space**

### 1. Intent

Harborfront open space is intended to provide additional connecting and circulation space between the waterfront and the upland areas, and to help implement the Harborfront Public Improvement Plan, Resolution 27794. Public open space along Alaskan Way, and open space which contributes to the creation of a hillclimb, such as along the Lenora Street right-of-way between Alaskan Way and the Viaduct, shall be bonused. Harborfront open space shall be coordinated with the public promenade/open space development to create an integrated park, or open space system, along the waterfront.

### On-Site Open Space

The provisions of this section apply to open space along both Alaskan Way and Lenora Street, unless an exception is specifically made.

### 2. Bonusable area

- a. The minimum area eligible for a bonus shall be 4,000 square feet.
- b. The maximum area eligible for a bonus shall be 30 percent of the area of the lot.

### 3. Area and dimensions

#### Basic Standards

#### a. Principal open space area

A bonused harborfront open space area shall contain a principal area in one contiguous parcel a minimum of 3,000 square feet in size. No dimension of this minimum principal area shall be less than 40 feet.

- b. The principal area of the bonused harborfront open space or 60% of the total harborfront open space provided, whichever is greater, shall be open to the sky.
- c. All bonused harborfront open space, except along the Lenora Street hillclimb, shall have frontage along Alaskan Way and shall be no higher

than three feet above street level within at least the first 20 feet of the street property line.

#### Design Guidelines

- d. Portions of the harborfront open space may be at different levels as long as they are physically and visually connected. No area shall be separated from an adjacent area by a change in elevation greater than approximately three feet.
- e. Rooftop areas that terrace upward as part of a hillclimb along the Lenora Street right-of-way shall qualify as bonused space provided they are directly accessible from the hillclimb, have a minimum dimension of approximately 30 feet in any direction, except for landings adjacent to the Lenora Street hillclimb, and provide unobstructed views to the waterfront along all western edges.
- f. Except for approved landscaping, there shall be no permanent obstructions taller than approximately three feet along at least 80 percent of the western edge of the harborfront open space in order to preserve views to the waterfront.

#### 4. Access and hours of operation - Basic Standards

Harborfront open space should expand the area of the public promenade/open space proposed along the waterfront and should be easily accessible to pedestrians along Alaskan Way.

- a. Open space shall be directly and easily accessible from Alaskan Way or the Lenora Street hillclimb.
- b. A minimum of 25 percent of the perimeter of any bonused area must have unobstructed frontage onto a public street or public area connected to the street that provides pedestrian access to the space. However, for bonused areas located above grade along the hillclimb at Lenora Street, a minimum frontage of 10 feet abutting the public hillclimb shall provide pedestrians with unobstructed access into the space.
- c. Bonused harborfront open space shall be open to the public 24 hours a day, seven days a week.

#### 5. Retail requirements - Basic Standards

For the convenience of people using the open space and to provide interest and activity, at least 20 percent of the perimeter frontage of the harborfront open space shall be occupied by uses which meet the standards for a retail shopping bonus (Section D).

### Special Conditions - Basic Standards

The developer shall secure lease(s) for the retail shopping area within two years of the date that the first Certificate of Occupancy is issued for the project using the bonus, or when the final Certificate of Occupancy is issued, whichever is first.

#### 6. Landscaping and furnishings

Treatment of bonused space should accommodate active public use and emphasize a strong visual and physical relationship with the waterfront area west of Alaskan Way.

##### Design Guidelines

- a. Approximately 25 percent of the bonused space shall be landscaped with plant material, including trees, in permanently installed planting areas and include seasonal planting.
- b. Art visible from the street shall be incorporated as part of the open space as provided in the general conditions of the Rule.
- c. A minimum of approximately one lineal foot of seating for every 30 square feet of bonused area shall be provided. A maximum of half of the seating may be portable.
- d. Non-transparent perimeter walls, excluding railings, should be decoratively finished or lined with continuous planting on the open space side to a height of approximately 12 feet, or to the top of the wall, whichever is less. Exposed walls above 12 feet should be light in color to reflect light into the space.
- e. Temporary kiosks, displays, art exhibits and retail use of the space may be permitted provided they are portable and that public use and access are not precluded. The total area occupied by any temporary use for more than seven days should generally not exceed 10 percent of the harborfront open space in addition to the transparent overhead weather protection permitted in Section 7.

#### 7. Coverage - Design Guidelines

The siting of the harborfront open space should maximize solar access and increase light and air and a sense of openness within the space. Exposure to waterfront views should also be maximized. The park shall be open to the sky, except that a maximum of approximately 10 percent of the bonused area may be covered by permanent transparent overhead weather protection, or by temporary overhead weather protection which is used six months per year or less. Temporary covering does not have to be transparent. The siting of these features shall reduce as much as possible any obstruction of views to the waterfront.

8. The ratio of development rights to on-site open space shall be three to one.

#### Off-Site Open Space

9. Basic Standards a. Upland development shall be eligible for a Harborfront Open Space bonus by contributing to the development of the following off-site public areas:

For development between Pike and Bell Street:

Open space and public access improvements related to the redevelopment of the area between Piers 63 & 66 as a short-stay moorage facility, provided that specific elements eligible for a bonus are not already included in the commitments for a breakwater and moorage floats made in a memorandum of understanding between the City, Port of Seattle, and the State Department of Natural Resources in 1989. Open space development at the North side of Pier 66 may be eligible, if it exceeds the requirements of the Shoreline Master Program.

For development between Bell Street and Myrtle Edwards Park:

- Open space improvements at the foot of Vine Street to create a street-end park.
- Overwater public access beyond that required by the Seattle Shoreline Master Program for any shoreline development north of Broad Street.
- Connections to strengthen pedestrian access from upland lots to the shoreline.

The specific project and project elements shall be at the discretion of the City. Improvements at locations other than those identified above may be substituted at the discretion of the City. Specific design guidelines, access requirements, and other conditions shall be determined on a case by case basis. If there is an opportunity for the City to use a cash contribution to develop a particular open space project, such a contribution may be allowed to substitute for direct provision of the open space.

10. The allowable bonus for provision of off-site open space shall be calculated as follows. These calculations assume a cost of open space at \$40/square foot. A larger bonus may be negotiated by the City based on a greater actual cost for open space improvements provided by a developer off-site.
  - a. a ratio of one square foot of developed public access over water in excess of that required by the Shoreline Master Program for every three square feet of development rights ("developed" means public access floats, ramps, deck with seating, cantilevered area, railing, landscaping); or
  - b. the area of commercial development (up to the maximum permitted by height and development standards) minus 2.5 FAR times \$13.33/square foot.

## S. Performing Arts Theaters in DOC1, DOC2 and DRC zones

### 1. Intent

Performing arts theaters are intended to enliven an area with activity during the evening hours and to add support to related shops, restaurants and amusement activities. Theater design should promote activity on the street and add visual interest.

### 2. Bonusable Areas

- a. The minimum theater size eligible for a bonus shall include a seating area of at least 200 seats and the necessary support areas.
- b. Space for a performing arts theater shall be provided in a new or existing structure either
  - 1) on the lot where the additional floor area is used, or
  - 2) off-site in the case of a conditional use theater in the DRC zone.

### 3. Area and Dimensions - Design Guidelines

The performing arts theater bonus shall accommodate a wide variety of theater sizes and types to encourage a broad range of live entertainment offerings downtown.

- a. The maximum **bonusable space** shall be established as part of the review process, and shall be based on the seating and stage area, the theater lobby(s), backstage area, and any other space accessory to the theater.
- b. The seating and stage areas of the theater shall be expressly designed for the presentation of performing arts, and their size and arrangement shall be subject to the approval of the Director. Floor slopes, ceiling heights and acoustical and lighting systems shall be adequate to meet the viewing requirements of the audience relative to the size of the auditorium.

### 4. Access and Street Orientation

The theater should be designed to promote activity on the street and add visual interest. It should be highly accessible and visible from streets or public open spaces.

#### Basic Standards

- a. A lighted marquee, display signs and/or banners related to the theater operation shall be required above the main street entrance.

#### Design Guidelines

- b. Lobby areas with transparent walls located along the streetfront are desirable.

- c. To avoid creating large expanses of street frontage with limited visual interest or activity, theater street frontage shall be limited to approximately twenty-five percent of the total street frontage of the lot or sixty feet, whichever is less, on Class I Pedestrian Streets where street level uses are required. On Class I Pedestrian Streets where street level use requirements do not apply, theater frontage shall be limited to approximately sixty feet. Any street level area of the theater exceeding the limits must be separated from the street by another use. There shall be no frontage limitations on Class II Pedestrian Streets. Departure from these standards shall be permitted at the discretion of the Director to address special conditions of the site which may affect the theater's street orientation or to accommodate specific needs related to the theater's operation.
- d. A covered queuing area shall be provided.
- e. Direct access shall be provided to the theater lobby from the street or bonused public open space. However, the theater itself may be above or below street level.
- f. Truck loading/unloading space should be provided off street, preferably off an alley.

#### 5. Special Review Criteria

The Director shall use the following criteria to evaluate the eligibility of a proposal for the performing arts theater bonus:

- a. The theater is most desirable at locations where it will contribute to an active pedestrian environment and where it will help promote other related retail and entertainment uses.
- b. The theater shall provide a place for live performances of theater, dance or music. The auditorium area shall be specifically designed for the presentation of live performances under the best possible viewing and acoustical conditions. Theaters principally intended for nightclub or cabaret type entertainment or adult entertainment shall not be bonused.

#### 6. Special Conditions

Before any Certificate of Occupancy is issued, the applicant shall submit to DCLU a letter of intent signed by the theater operator and applicant, describing generally the operating plan and specifying the theater operator.

### T. Landmark Performing Arts Theaters (LPATs) in DOC1, DOC2, DRC or DMC Zones

#### 1. Intent

The **landmark performing arts theater** (LPAT) bonus is intended to contribute to the city's architectural, historic and cultural heritage by encouraging the

preservation, rehabilitation and use of **landmark performing arts theaters** as defined by the City in Ordinance 116513.

## 2. Eligible Theaters

All theaters that have been approved for designation as landmarks by the Seattle Landmarks Preservation Board and are subject to an ordinance by City Council establishing incentives and controls prior to the issuance of a building permit for the project using the theater bonus; have at least 20,000 square feet of performing arts space; and are located downtown in a DOC1, DOC2, DRC or DMC zone are eligible for the **landmark performing arts theater** bonus.

A bonus may be granted either for creating a **performing arts theater** in space in an LPAT not currently in use as a theater or for rehabilitation of an operating theater to preserve a current use.

## 3. Maximum Bonusable Area

Rehabilitation or restoration of the following areas of the theater may earn a bonus: the seating and stage area; the theater lobby(s); backstage area; and any other space accessory to the theater as determined by the Director.

## 4. Application Process

Proposals that include a LPAT bonus require a Certificate of Approval from the Seattle Landmarks Preservation Board in accordance with the requirements of Part 6 of the Seattle Landmarks Preservation Ordinance (Seattle Municipal Code, Sections 25.12.670-.790), unless the plan of rehabilitation is incorporated in the controls and incentives approved by City Council pursuant to SMC 25.12.510. If the owner of a LPAT is also applying to **transfer development rights**, or for **public subsidies**, subsidy review will be performed by the Department of Housing and Human Services (DHHS). Use of this bonus may be subject to completion of subsidy review by DHHS. DHHS may require financial and other documentation in order to conduct subsidy review. Application for the LPAT bonus shall be made at the Department of Construction and Land Use (DCLU). See Section VIII of this Rule for standard review procedures.

## 5. Security

If a LPAT bonus is sought, the applicant for a permit for the project proposing to use the bonus will be required to provide security for the completion of the rehabilitation of the landmark theater. Security may be provided in the form of cash in a restricted escrow account, letter of credit or other form acceptable to the City. Security shall be posted when the **final building permit** is issued for the project using the bonus FAR. A waiver from the security requirement may be permitted for an on-site LPAT at time of issuance of building permit. The Landmarks Preservation Board may modify this requirement to allow for a phased rehabilitation program and/or a phased occupancy for the landmark theater. Funds may be drawn from the security by the owner of the theater during the course of the rehabilitation work with prior approval of the DHHS Director.

## 6. Duration

The theater is required to be available for the duration of any commitment made to qualify for a **Floor Area Ratio (FAR)** bonus for at least 180 days a year for live theater performances. An annual report by the theater owner to DCLU shall specify the number of days when live performances took place, number of days not open, and number of days when other types of entertainment were provided.

The use of the theater primarily as a performing arts theater for at least 40 years\* shall be ensured by binding covenants between the theater owner and the City. The recipient of the bonus (unless also the theater owner) shall have no obligation for the operation of the theater.

\* and for so long thereafter as any of the interior features of the theater portion of the structure remains subject to controls under the Landmarks Ordinance or successor provisions, unless after the minimum 40 year period the owner demonstrates to the satisfaction of the Landmarks Board that a change in use is required to allow the owner a sufficient economic return under the standards then applicable to proceedings for removal or modification of such controls.

## 7. Restrictive Covenant

A restrictive covenant approved by DCLU in consultation with DHHS and DON shall be recorded by DCLU with the King County Department of Records and Elections with the deed to the property on which the LPAT is located. If other bonuses or **TDRs** are used, the restrictive covenant may be combined with a Performance Agreement, as approved by DHHS. The covenant will include the terms, duration, priority of commitment, commitment to repair and maintain the structure and right to access by City staff.

If the requirements of the covenant are not met, then in addition to other remedies, the City may apply to a court for appointment of a receiver to manage the theater.

## 8. Variable Bonus Ratio

The Land Use Code permits a variable **bonus ratio** (maximum of 12). It is intended to be set at a ratio which makes the LPAT bonus competitive with other bonuses available in the same **tier** for the project. Determination of the exact **bonus ratio** will depend upon the cost of rehabilitation, the cost per square foot of **bonusable** theater **space** of obtaining a linkage (market conditions), other subsidies available for the theater rehabilitation and a comparative analysis of costs per square foot of using other bonuses. DCLU shall request documentation of sources and uses of funds for theater rehabilitation. DCLU will review information, and consult with other departments and determine what **bonus ratio** is appropriate.

# U. Museum

## 1. Intent

Museums are intended to provide educational, cultural and/or recreational opportunities downtown by establishing permanent interior areas for viewing

objects, programs or presentations of natural, scientific, historical, cultural or literary interest.

2. Bonusable area

- a. Adequate space should be provided for exhibits and public viewing, as well as necessary storage and support facilities. All such support spaces may be included in the bonusable area.
- b. In order to be eligible for a bonus, a museum shall be at least 2,500 square feet in size.
- c. The maximum bonusable area shall be 10,000 square feet, except that the bonus may be increased up to 30,000 square feet for the major facility of an existing established museum.
- d. The minimum ceiling height of all public areas shall be twelve feet.

3. Location and street orientation - Design Guidelines

- a. To provide an even dispersion of museums throughout downtown, only one may be eligible for a floor area bonus within a 300 foot radius. The Director may permit an additional museum within the 300 foot area if at least one of the following conditions apply:
  - (1) The material on display has relevance to a specific downtown location; or
  - (2) Topographic conditions create a significant separation between locations within the same 300 foot radius area; or
  - (3) The space is integrated with a transit station.
- b. Museums should provide pedestrian interest and attraction. Transparent frontage sufficient to allow views into the exhibition area, or exterior signage and display cases visible from the street or a public open space shall be provided.

4. Access and hours of operation

Basic Standards

- a. Identification of access through signs or direct visibility shall be provided from the street or public open space on which the museum fronts.
- b. The museum shall be open to the public a minimum of six hours a day for five days a week, one of which shall be on a weekend.
- c. The museum should be functionally separate from other areas of the project. While access to the major circulation areas of a building, such as

elevator lobbies, is desirable, and may be provided, the display space shall be independent of all building circulation areas. If needed, walls or other enclosure must be provided.

#### Design Guidelines

- d. A minimum area of approximately 2,500 square feet shall be provided at street level or at the level of a public open space directly accessible from a street or bonusable public open space.

#### 5. Landscaping and furnishings - Design Guidelines

A minimum of approximately one lineal foot of seating shall be provided for every sixty square feet of display area. All seating may be movable.

#### 6. Special review conditions

The Director shall use the following criteria to evaluate the eligibility of a proposal for a museum bonus.

- a. The museum should not have a commercial character or be used for commercial purposes, although an associated use such as a snack bar or shop may be permitted.
- b. The use of the space should be of significant, long term educational, cultural and/or recreational value and interest to the public.
- c. Information should be available to viewers to enhance their enjoyment and knowledge of items on display. Presentations that encourage public participation or direct interaction with the display are desirable.
- d. The developer shall present a proposal for the use of the museum identifying the nature of items to be displayed or programs to be presented as well as examples of typical design and layout of exhibits in the space.
- e. Ample space should be provided to ensure that items on display can be viewed to their best advantage. Renderings illustrating typical features of the display area shall be made available for review by the Director.
- f. If the operator of the museum is not the same as the developer, a ten year lease from the operator of the museum identifying how the space is to be used shall be secured by the developer for review by the Director. The lease shall be secured within two years of the date that the first Certificate of Occupancy is issued for the project using the bonus, or when the final Certificate of Occupancy is issued, whichever is first.

## V. Urban Plaza

### 1. Intent

Urban plazas are intended to provide public open spaces in the most intensely developed areas of downtown, and are especially desirable at station locations along the transit tunnel. They should be strategically located to denote important places within downtown, create a focus for surrounding development, and increase light and air at street level. Their relationship to the transit stations is intended to add space for pedestrians and increase the convenience and comfort of transit riders while providing points of orientation within downtown.

The relationship between plazas and existing open spaces should reinforce major public focuses where they are desired.

### 2. Bonusable area

- a. The plaza shall be one contiguous space.
- b. In order to be eligible for a bonus, a plaza shall be at least 6,000 square feet in size.
- c. The maximum area eligible for a bonus shall be 15,000 square feet.

### 3. Location

Urban plazas shall be eligible for a floor area bonus when located on lots approved by the Director, according to the following provisions.

#### Basic Standards

- a. An urban plaza shall not be bonused on any block which contains an existing plaza bonused under Title 24 or an existing urban plaza bonused under Title 23.
- b. The urban plaza shall meet the locational conditions of either subsection b(1) or subsection b(2) below:
  - (1) The plaza shall abut the street above the transit tunnel at a station location or abut a major transfer point for surface transit operations. A major transfer point shall be the intersection of major or principal transit streets, or the intersection of a major or principal transit street and a downtown circulator route, Figure A; or
  - (2) The plaza shall be located at the intersection of a street designated as a major transit street and either a Class I Pedestrian Street or a Street Park, and the following conditions exist:
    - (a) There are no property line street facades required on any of the proposed street frontages of the plaza; and



(b) One of the following three conditions exist:

- Measuring along all streets abutting the plaza, there is a minimum distance of 500 feet between the proposed plaza and any existing other plaza or large public open space; or
- The proposed plaza is located on a corner opposite and across a street from an existing plaza that: 1) is classified as a Type 1 Plaza or Shopping Plaza in Section 23.49.34 of the Land Use Code; 2) is located on a corner; and 3) occupies no more than 50 percent of either street frontage; and provided there are no other plazas elsewhere along the blockfronts facing the intersecting streets, Figure B; or

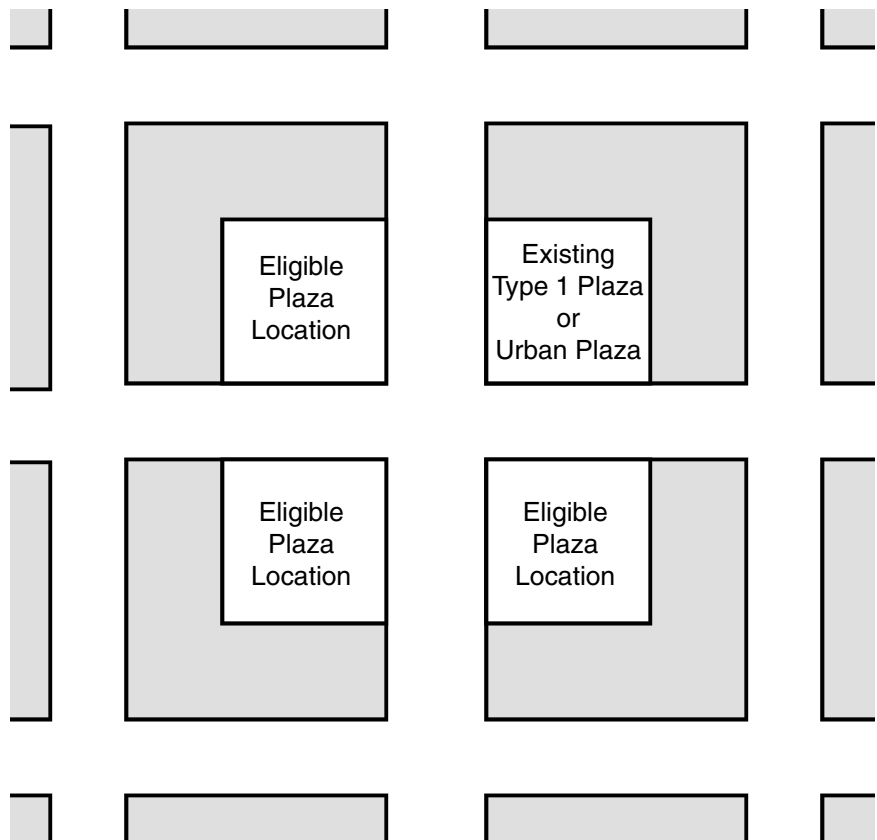


Figure B

- The proposed plaza is directly opposite and across a street from the longest frontage of an existing plaza that is: 1) classified as a Type I Plaza or Shopping Plaza in Section 23.49.34 of the Land Use Code; and 2) occupies more than 50 percent of the blockfront whether on a

corner or not; and there are no other public open spaces within one block of the existing Type I plaza, Figure C.

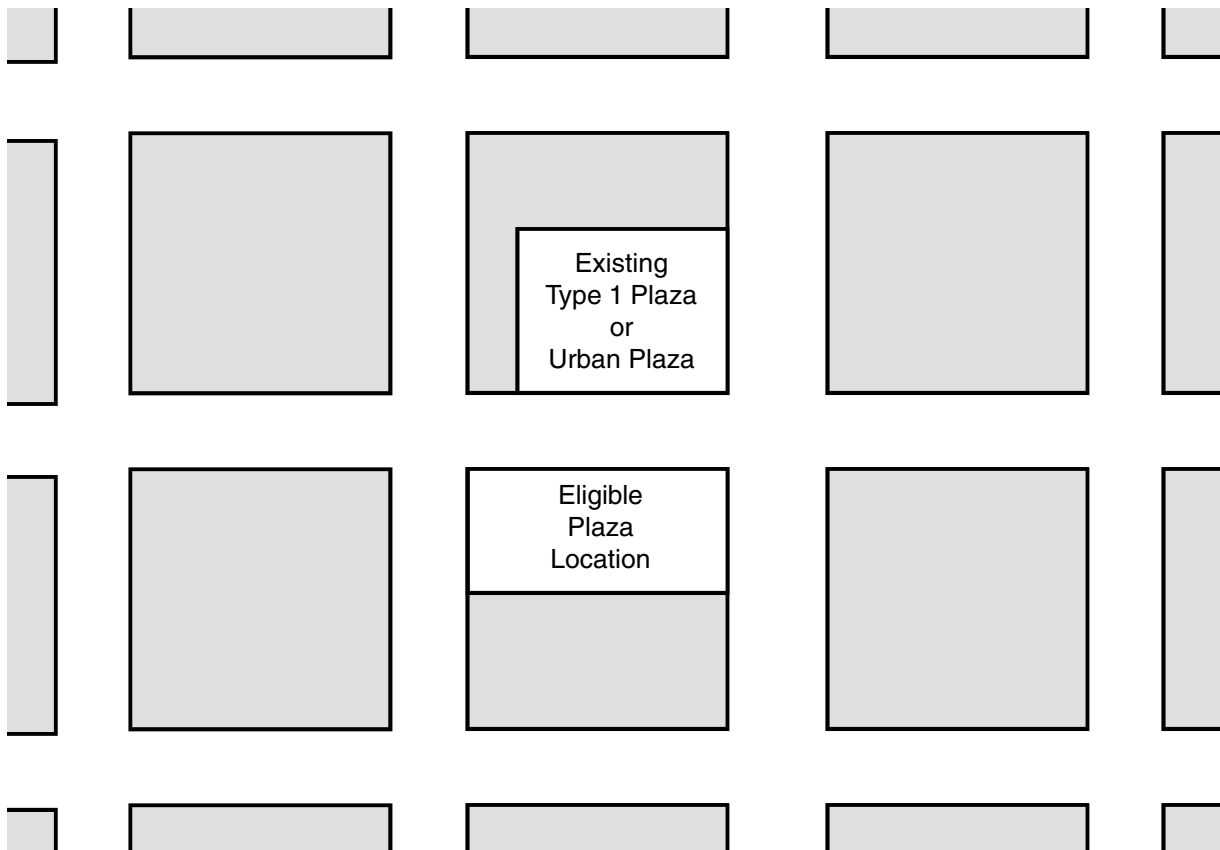


Figure C

- c. The plaza shall have at least one frontage on a Class 1 Pedestrian Street.

#### Design Guidelines

- d. The design of the total project should maximize direct or reflected solar access. Preferable plaza locations are to the south of tower development, or where the siting of the plaza would improve solar access to the sidewalk.
- e. Subject to approval of the Director, plazas may be combined with other open space public benefit features, except parcel parks.

#### 4. Street orientation - Design Guidelines

Urban plazas should provide highly visible openings in the street facade at a particular location and should contrast with adjacent areas which have a strong spatial definition provided by the street facade.

- a. On Class 1 Pedestrian Streets, a maximum frontage of approximately 120 feet shall be exempt from street facade requirements.
- b. On Class 2 Pedestrian Streets, all plaza frontage shall be exempt from street facade requirements, except on streets where street level uses are required. Where street level uses are required, the maximum frontage that can be open to the street shall be approximately 80 feet, and other areas of the plaza must be physically separated from the sidewalk by a structure containing uses specified as required street level uses.
- c. When located at a corner, the areas of the plaza within approximately a 20 foot radius drawn from the intersection of the two street property lines shall be free and clear of all permanent structures above two feet in height, except for approved landscaping.

#### 5. Area and dimensions - Design Guidelines

Urban plazas should be relatively large, so that they establish prominent focuses within the transit system and accommodate the high level of pedestrian activity expected to occur at these locations. The size of some areas of the plaza should allow for heavy volumes of pedestrians through the space, while other areas should be set aside for more passive use.

- a. At least one space shall be designated as the principal space of the urban plaza. The principal space should have a minimum area of approximately 4,000 square feet or 60 percent of the total plaza area, whichever is greater, that is open to the sky and where no dimension is less than approximately forty feet.
- b. This principal space should be directly accessible from the sidewalk and shall be located no further from the sidewalk than the clear, unobstructed width of access along the street. This space shall be generally at one level with a maximum grade change of approximately three feet.
- c. Portions of the plaza may be at different levels as long as they are physically and visually connected. No area shall be separated from an adjacent area by a change in elevation greater than approximately three feet, unless the change in grade is necessary to provide access to transit tunnel stations below grade.

#### 6. Access and hours of operation

The urban plaza should function as an extension of the sidewalk. Any physical obstruction between the plaza and the sidewalk should be minimized. On steeply sloping lots, the plaza should assist pedestrian movement up and down the hillside.

### Basic Standards

- a. Urban plazas shall be publicly accessible twenty-four hours a day, seven days a week.

### Design Guidelines

- b. On lots without significant grade changes a minimum of fifty percent of each plaza street frontage should provide clear and unobstructed access to the sidewalk, and the difference in elevation between the plaza and the side-walks should not generally exceed three feet.
- c. On steeply sloping lots where the edge of the plaza fronts on the sloping street for more than sixty feet, an area of the plaza that has a minimum depth of approximately twenty feet from the street property line should step up the hillside so that no elevation of the plaza floor within this area is more than five feet from the elevation of the sidewalk. Solid railings shall not be permitted where they would create a wall in excess of seven feet high measured from the elevation of the sidewalk. Alternately, subject to the approval of the Director, this area may be designed, and bonused, as a hillclimb terrace or hillclimb assist.
- d. To accommodate special lot conditions, such as a location along a steeply sloping street, or to provide improved access to below grade transit stations, the Director may approve modifications to these standards that are consistent with the objective of strengthening the relationship between the plaza area and the street by making it visually and physically more accessible to pedestrians.

## 7. Retail requirements - Basic Standards

As an extension of the street environment, the urban plaza should promote a high level of activity complementing that of the abutting street.

Frontage equivalent to at least fifty percent of the perimeter of the plaza shall be occupied by uses which qualify for the retail shopping bonus (Section D), and have direct access onto the plaza. Qualifying uses with frontage on the plaza shall be eligible for a Retail Shopping bonus.

### Special Conditions - Basic Standards

The developer shall secure lease(s) for the retail shopping area within two years of the date that the first Certificate of Occupancy is issued for the project using the bonus, or when the final Certificate of Occupancy is issued, whichever is first.

## 8. Landscaping and furnishings

Landscaping and special elements of the plaza should create an aesthetically pleasing space that is well integrated with the surrounding street environment.

Such features should establish an identity for the space while providing for the comfort of those using it.

#### Basic Standards

- a. Up to ten percent of the area of the plaza, or 800 square feet, whichever is less, may be used for reserved seating for restaurants or other uses.

#### Design Guidelines

- b. A minimum of approximately twenty percent of the plaza area shall be landscaped. A ratio of one tree for each 800 square feet of plaza area shall be required. To ensure year round vegetation and color, landscaping shall include seasonal plantings. The Director may modify these requirements to improve access to below grade transit stations or to respond to other special conditions of a particular lot.
- c. Art shall be incorporated as part of the plaza as set forth in the general conditions of this Rule.
- d. A minimum of approximately one lineal foot of seating for every thirty square feet of plaza area shall be provided. A maximum of half of the seating may be moveable. The arrangement of seating and landscaping should enhance the quality of the space and allow a variety of passive recreational activities.
- e. Non-transparent perimeter walls should be decoratively finished or lined with continuous planting on the plaza side to a minimum height of approximately twelve feet or to the top of the wall, whichever is less. Exposed walls above twelve feet should be light in color to reflect light into the plaza area.
- f. Temporary kiosks, displays, art exhibits and retail use of the plaza may be permitted provided they are portable and use of and access to the plaza by the general public is not precluded. The total area occupied by any temporary use for more than seven days should not exceed approximately ten percent of the area of the plaza.

#### 9. Coverage of the urban plaza - Design Guidelines

- a. Urban plazas should help increase light and air and a sense of openness within the public street environment. Limited coverage of these spaces may be permitted to increase the activity and comfort of the space, but the overall openness and character as outdoor public street space should be maintained.
- b. The plaza should be open to the sky, except that a portion, not to exceed fifteen percent of the total plaza area, may be covered. This coverage may occur as permanent, freestanding elements, such as retail kiosks or pedestrian shelters, or as an overhead arcade or other form of overhead weather protection. When retail kiosks are provided, they should be no greater

than twelve feet in height and cover no more than approximately five percent of the plaza. Permanent shelters and weather protection shall be transparent. Temporary overhead weather protection in use for a maximum of six months per year shall be permitted, but shall be limited to approximately ten percent of the area of the plaza. Temporary overhead weather protection is not required to be transparent. Transparent coverings above access to transit stations are excluded from the limit on coverage.

#### 10. Wind impacts and solar access - Special Conditions

The Director may require that special measures be taken to reduce downdraft wind impacts from abutting development and to increase solar access to the plaza.

### W. Transit Station Access: Mechanical

#### 1. Intent

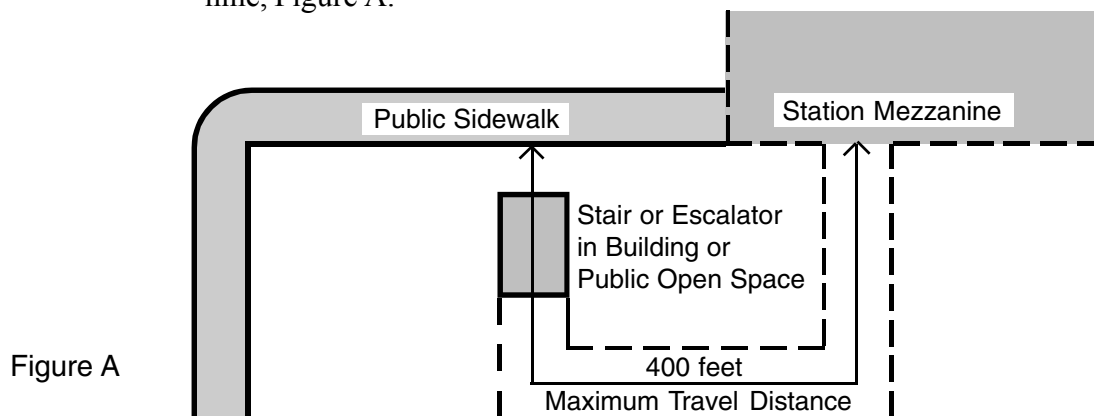
Mechanical assists to transit stations are to provide direct access from the street level to transit stations. Mechanically assisted transit station access at locations approved by Metro and the Director shall be bonused. Upon approval by the Director, the mechanical assist may also be incorporated in bonused hillside terraces, urban plazas, parcel parks, shopping atriums and shopping corridors.

#### 2. Bonusable area

There shall be no minimum or maximum bonusable area for the transit station access. The size of the access shall be determined by Metro. The access will be on multiple levels, and may be located partially in the street right-of-way.

#### 3. Locational criteria - Basic Standards

- a. Lots from which the mechanical access to the transit station is provided shall abut a station mezzanine or be located within a 300-foot radius of the station mezzanine.
- b. The maximum distance from the public sidewalk adjacent to the transit station access to the station mezzanine shall be 400 feet. This shall be measured along the shortest path of travel from the sidewalk to the mezzanine, Figure A.



- c. The minimum distance from a bonused access to the nearest existing or proposed station entrance on the same block, measured along the street property line, shall be 180 feet.
- d. The Director may approve a proposed access which uses a public right-of-way to reach a station mezzanine only when it has been determined that the connection will not adversely affect other uses of the right-of-way including utilities.
- e. Queuing and circulation space off the sidewalk, in the form of a sidewalk widening, arcade or public open space, shall be provided at both ends of the assist and shall have minimum dimensions as required by Metro.

#### 4. Area and dimensions - Design Guidelines

Access ways to the stations should provide sufficient space to comfortably move large volumes of pedestrians between the transit station and the street without conflicting with sidewalk activity.

- a. The vertical circulation elements of the access shall include stairways, escalators, and/or elevators, as determined by Metro. These elements shall meet Metro standards for the following: escalator widths, stair rise and tread relationships, handrails, passageways, ramps, lighting, finishes and materials, ventilation, and information signage.
- b. The physically disabled shall be provided with convenient access from the street level to the station, as determined by Metro.
- c. Where access is not directly from the public sidewalk, the minimum width of the circulation path from the sidewalk to stairs and escalators shall be determined by Metro to assure adequate space to accommodate anticipated pedestrian volumes.
- d. All below-grade passages of the assist and all covered areas at grade shall have a minimum height from finished floor to finished ceiling, including all lighting fixtures and signs, as required by Metro.
- e. Development standards associated with such bonused areas as plazas, hillside terraces, parcel parks or shopping atriums may be modified by the Director to accommodate an approved mechanical assist. The Director may require that specific conditions be met to ensure that the bonused public area and the assist are well integrated and both function as intended.

#### 5. Access and hours of operation - Basic Standards

- a. Mechanical assists shall be visible and directly accessible from the street. The assist entrance shall be immediately adjacent and accessible without any obstruction to a public sidewalk or a bonused public open space.

- b. The assist shall connect, either directly or via an underground passageway, the sidewalk level with the tunnel station. The below-grade portion of the station access may be constructed within the street right-of-way.
- c. The assist entrance may be provided within a building, provided that hours of access are the same as the operating hours of the transit system.
- d. The assist shall provide free access to the public at all times when the station is open.

#### 6. Landscaping and furnishing - Design Guidelines

Design of the station access should incorporate features that establish an identity for the facility and provide orientation for transit riders. Features that add interest to the space without conflicting with pedestrian movement are encouraged, as well as efforts to increase access to natural light and reduce noise.

- a. Non-transparent walls should be architecturally finished in an interesting way. Advertising shall be permitted in conformance with Metro standards for size, area and location.
- b. Temporary kiosks, retail uses such as bookstalls, flower stands and newstands, displays and exhibits shall be permitted provided they do not obstruct pedestrian movement and width of the main circulation path is no less than required by Metro.

#### 7. Lighting - Design Guidelines

Increasing access to natural light should be encouraged as much as possible through the siting of openings at street level and the use of transparent coverings.

#### 8. Special conditions

- a. Action on any building permit required to build the access shall be incumbent upon approval of a plan submitted by the developer to the Director and Metro binding the developer to construct the access in accordance with the plan.
- b. An agreement shall be required between the property owner and Metro granting a permanent easement for public use of the assist in connection with transit operations. The easement shall be recorded with the deed to the property at the King County Department of Records and Elections.

## X. Transit Station Access: Grade Level

### 1. Intent

Topographic conditions along the transit tunnel alignment present opportunities for admitting natural light and providing pedestrian access to transit stations at approximately the same level as station mezzanines. The intent of grade level transit station access is to increase accessibility and improve the quality of station environments, provide connections with public open spaces to improve pedestrian access, and to admit daylight into stations. The location of grade level access to transit stations associated with public open spaces shall be approved by Metro and the Director.

### 2. Bonusable area

There shall be no minimum or maximum bonusable area for the transit station access. The size of the access shall be determined by Metro. The access will be on multiple levels, and may be located partially in the street right-of-way.

### 3. Locational criteria - Basic Standards

- a. Lots from which grade level access to transit stations is provided shall abut a station mezzanine or be located within a 300-foot radius of the station mezzanine.
- b. The maximum distance from the public sidewalk adjacent to the transit station access to the station mezzanine shall be 400 feet. This shall be measured along the shortest path of travel from the sidewalk to the mezzanine, Figure A.

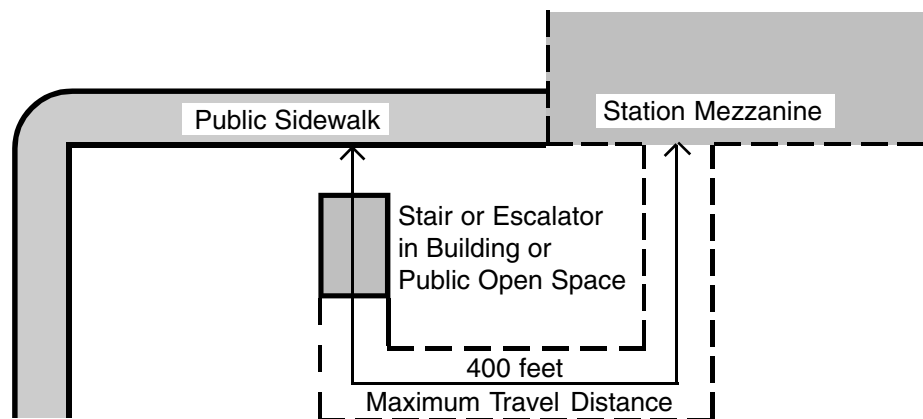


Figure A

- c. The minimum distance from a bonused access to the nearest existing or proposed station entrance on the same block, measured along the street property line, shall be 180 feet.
- d. The Director may approve a proposed access which uses a public right-of-way to reach a station mezzanine only when it has been determined that the

connection will not adversely affect other uses of the right-of-way including utilities.

#### 4. Area and dimensions - Design Guidelines

Bonus public open space which has been adapted to accommodate station access should provide a relatively level route between the street and the mezzanine or concourse of the transit station. At the discretion of the Director, departure from the design standards established for plazas, parcel parks and hillside terraces may be permitted to ensure that access to the station is well integrated with the open space, and that the open space functions as intended. To qualify as an open space providing transit station access, the following special conditions shall be met:

- a. Providing open space at the same elevation as a transit station mezzanine may require portions of the open space to be substantially below some street elevations. Departure from design standards regarding elevation requirements for a particular open space feature may be permitted. However, changes in grade between the sidewalk and abutting depressed portions of open space should not create the effect of a precipice along the sidewalk edge. The level of the open space should not be more than five feet below the street elevation along the sidewalk edge. Where the open space is more than five feet below the street elevation, it should be separated from the sidewalk by another use or a landscaped area directly accessible from the sidewalk and extending a minimum of ten feet from the sidewalk onto the lot.
- b. To ensure that the transit station has sufficient frontage on the open space to receive natural light from above, the mezzanine level or concourse of the transit station should have a minimum frontage of approximately thirty feet that opens onto a public open space. This frontage should be at the elevation of the open space, directly accessible to pedestrians and have a minimum height of ten feet. The design of the mezzanine access shall not require that passengers queue in an exterior area.

#### 5. Access and hours of operation - Basic Standards

- a. To accommodate transit station access and to account for the different relationship required between the street level and the level of the open space, the access requirements for a particular open space feature may be modified. However, a physically and visually direct path through the open space shall connect the street with the station access and shall meet the following conditions established by Metro and the Director:
  - (1) A clear path with a minimum width shall be required between the transit station frontage and a public sidewalk. Stairs may be a part of the path, but the difference in grade between the station access frontage and the street elevation where access is provided shall be

limited. Any remaining change in elevation shall be accommodated by ramps or gradual level changes in the floor of the open space.

- (2) Signage indicating the location of the transit station shall be provided at the entrance to the open space on the street front.
- (3) The public shall have unobstructed, well lighted access through the open space at all hours that the station mezzanine is open.

#### 6. Landscaping and furnishing - Design Guidelines

- a. Any bonused public open space area used to provide access to the transit station shall be subject to the same landscaping requirements established for that particular amenity. However, at the discretion of the Director, these requirements may be modified to better adapt the space to specific conditions associated with its relationship to the transit station.
- b. Non-transparent walls should be architecturally finished in an interesting way. Advertising shall be permitted in conformance with Metro standards for size, area, and location.
- c. Temporary kiosks, retail uses such as bookstalls, flower stands and newstands, displays, and exhibits shall be permitted provided they do not obstruct pedestrian movement and the width of the main circulation path is no less than required by Metro.

#### 7. Lighting - Design Guidelines

Increasing the amount of natural light reaching the transit station shall be encouraged as much as possible.

#### 8. Special conditions

- a. Approval of any building permit required to build the access shall be incumbent upon approval of a plan submitted by the developer to the Director and Metro binding the developer to construct the access in accordance with the plan.
- b. An agreement shall be required between the property owner and Metro granting a permanent easement for public use of the access in connection with transit operations. The easement shall be recorded with the deed to the property at the King County Department of Records and Elections.

## Y. Transit Station Access Easement

### 1. Intent

Easements are intended to increase the opportunities for construction of direct access from the street level to the transit stations. The easement defines a volume of space adjacent to a transit station on a project site, within a structure, or both, in which Metro would construct a station entrance. An easement may be combined with bonused hillside terraces, urban plazas, parcel parks, shopping atriums, and shopping corridors.

### 2. Bonusable area

- a. There shall be no minimum or maximum bonusable area for the transit station access. The size of the access shall be determined by Metro. The access will be on multiple levels, and may be located partially in the street right-of-way.
- b. In order to be eligible for a bonus, Metro must approve the location and suitability of the easement based on the overall goals and objectives for the transit tunnel project.

### 3. Locational criteria - Basic Standards

- a. Lots on which the easement for access to the transit station is provided shall abut a station mezzanine or be located within a 300 foot radius of the station mezzanine.
- b. The maximum distance from the public sidewalk adjacent to the transit station access easement to the station mezzanine shall be 400 feet. This shall be measured along the shortest path of travel from the sidewalk to the mezzanine, Figure A.

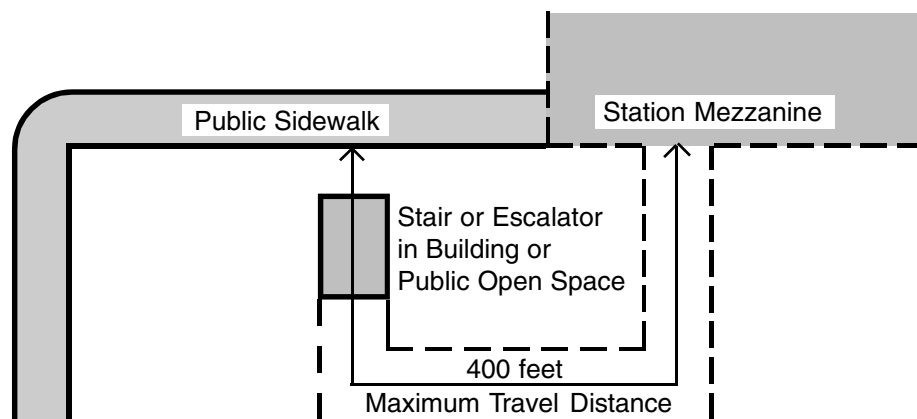


Figure A

- c. The minimum distance from the proposed access point in the easement area to the nearest existing or proposed station entrance on the same block, measured along the street property line, shall be 180 feet.
- d. The Director may approve a proposed access easement which uses a public right-of-way to reach a station mezzanine only when it has been determined that the connection will not adversely affect other uses of the right-of-way including utilities.
- e. The location of the easement shall be approved by Metro before a bonus may be granted.

#### 4. Area and dimensions - Design Guidelines

The area and location of the easement shall be configured to allow direct access from the sidewalk or public open space to the station. The easement may be located on a project lot, within a new or existing structure or a combination of both. The easement area may include parts of other bonused public benefit features. The configuration and all vertical and horizontal dimensions of the easement shall allow for construction and maintenance of the station access and include sufficient space for provision of both mechanical and a non-mechanical means of travel to the station.

#### 5. Construction of station access - Basic Standards

The design and construction of the station access within the easement area shall be the responsibility of Metro. The owner shall cooperate as necessary during construction to facilitate construction of the access including but not limited to the potential temporary closure of some areas of the site or structure adjacent to the defined easement.

#### 6. Access and hours of operation - Basic Standards

All portions of the easement area which are part of the path of travel for access to the transit station shall be open to the public at all times when the station is open.

#### 7. Landscaping and furnishings - Basic Standards

- a. When landscaping, furnishings or other amenities are provided within an easement area, the owner shall be responsible for maintenance except when the area is under the exclusive regulation of Metro.
- b. All landscaping, furnishings or other elements in the easement area which is also a part of another bonused feature shall be maintained by the owner in accordance with the requirements of the particular public benefit feature.

#### 8. Special Conditions - Basic Standards

An agreement shall be executed between the property owner and Metro which specifies the area and all dimensions of the easement, includes a preliminary design for the transit station access and grants a permanent right for public use

of the defined portions of the easement for access in connection with transit operations. The easement shall be recorded with the deed to the property at the King County Department of Records and Elections.

## **Z. Public Atrium**

### **1. Intent**

Public atriums are intended to provide weather protected spaces within the Downtown Office Core zones for passive recreational activities, as well as events and public gatherings which can best be accommodated indoors. Public atriums should function as an interior parcel park or wintergarden.

### **2. Bonusable area**

- a. In order to be eligible for a bonus, an atrium shall be at least 2,000 square feet in size.
- b. The maximum bonusable area shall be 5,500 square feet.

### **3. Location - Design Guidelines**

Public atriums shall be bonused when located on lots approved by the Director, according to the following provisions:

- a. The atrium is intended to accommodate activities that require indoor space and provide an alternative to outdoor public spaces during inclement weather. To ensure that most recreational activity will occur in the more visible and accessible outdoor public spaces, and that atriums will only be complementary to these major outdoor open spaces, the number of atriums shall generally be limited to one per block.

The Director may permit more than one atrium on a block if one of the following conditions exists:

- (1) The intensity of development within a given area generates enough demand for indoor space that an additional atrium is warranted.
- (2) The atrium is closely connected with the transit corridor and would provide waiting area for transit riders.
- (3) Topographic conditions are such that areas within the same block are, from the pedestrian's perception, not related or easily reached.
- (4) The atrium is integrated with a bonused hillclimb assist or transit tunnel access.

#### 4. Area and dimensions - Design Guidelines

The atrium space should be arranged as one large, contiguous space with horizontal and vertical dimensions that allow a variety of activities within it and create a sense of openness.

- a. The minimum dimension unobstructed by any permanent feature greater than three feet in height shall be approximately thirty feet.
- b. Approximately three quarters of the bonusable area, or 1,500 square feet, whichever is greater, shall have a minimum height of approximately twenty- four feet. The remaining area may have a minimum height of twelve feet.
- c. The elevation of the atrium floor may vary, but no level shall be separated from an abutting level by a grade change greater than approximately three feet. The maximum difference in grade between the highest and lowest elevation of the atrium floor shall be approximately five feet.

#### 5. Street orientation - Basic Standards

- a. The atrium shall be accessible from the main lobby of a structure, as well as being directly accessible and visible from a street or bonused public open space.
- b. A minimum of twenty-five percent of the perimeter walls must have clear, untinted glass windows facing a street or public open space.
- c. Any frontage on a street shall be subject to the street facade development standards for the zone in which the atrium is located.
- d. Frontage on a Class I Pedestrian Street shall not exceed sixty feet.

#### 6. Access and hours of operation

The space shall be designed as a functionally independent area within the building and shall be separate from building lobbies and major paths of circulation, although it should be visible and directly accessible from these areas.

##### Basic Standards

- a. The space must be open to the public during normal business hours of the building and shall be available for public displays and performances.
- b. Notice shall be prominently posted stating that the atrium is a public space and that by no means, explicit or implied, shall the public be denied access to any area or feature of the atrium during normal business hours.

### Design Guidelines

- c. The atrium must be directly accessible through entrances a minimum of approximately ten feet wide from both an abutting street or bonused public open space and from the main lobby of the building or a hillclimb assist connecting with the building lobby. The entrance doors and glazing should be transparent and the minimum combined width of door openings should be approximately six feet.
- d. The location of the atrium shall be clearly marked from the lobby, street access to the lobby and other points of access.
- e. Interior access to the space should generally be within three feet above or below the elevation of the lobby floor. Access from a hillclimb assist must be at the same level as a landing along the route of the assist.
- f. Direct access from an abutting street or public open space to the atrium may not result in a change in grade exceeding approximately three feet.

### 7. Limits to retail frontage - Basic Standards

To prevent the space from assuming a retail character, there shall be limits on the amount of retail space that is associated with it. Retail frontage, such as display windows, shall not exceed the equivalent of twenty-five percent of the perimeter of the atrium and shall be limited to establishments directly related to the use of the atrium space, such as cafes, small restaurants and newsstands. There shall be no bonus for retail uses with frontage only on the atrium.

### 8. Landscaping and furnishing

The design of the atrium should be conducive to temporary arts events and include electrical outlets, open areas for performers or exhibits, and seating.

#### Basic Standards

- a. Up to ten percent of the area of the atrium, or 300 square feet, whichever is less, may be used for reserved seating for restaurants or other uses.
- b. Public restroom facilities shall be provided in a location easily accessible to the atrium. Directional signs shall be placed in the atrium.

#### Design Guidelines

- c. Approximately fifteen percent of the atrium must be landscaped, including seasonal plantings.
- d. Art shall be incorporated as part of the atrium as provided in the general conditions of this Rule.

- e. Perimeter walls, excluding windows, should be decoratively finished or lined with continuous planting to a minimum height of approximately fifteen feet, or to the top of the wall(s) whichever is less.
- f. A minimum of approximately one lineal foot of seating for every thirty square feet of atrium area shall be provided. The seating may be moveable.

#### 9. Lighting

To improve the quality of the space, support interior landscaping and increase the overall sense of openness, a major feature of the space shall be natural light from skylights or clerestory windows, alone or in combination as follows:

- a. A minimum of half of the roof of the space shall be open to the sky except for a covering of transparent or translucent material. Systems which allow the space to be open to the sky in good weather are desirable; or
- b. A minimum of half the perimeter of the atrium shall have clerestory windows a minimum of eight feet in height.
- c. The Director may permit a combination of skylights and clerestory windows.
- d. Where glass walls or skylights are exposed to direct sunlight, heat loss/gain may be controlled by overhangs, mechanical venting or mechanically operating shading devices, such as blinds. Such mechanical systems shall be specified in the application and a program for their operation included.

#### 10. Special conditions

- a. The Director may modify standards to accommodate a specified use of the space that is determined to be of a public benefit. If a unique use of the space is proposed, such as designing the atrium floor to serve as amphitheater seating for public entertainment, the Director may allow departure from the established standards provided that any events occurring in the space are free to the public.
- b. Departure from development standards may be granted by the Director for atriums that are integrated with a below grade transit station. However, the following requirements must be met:
  - (1) The same amount of skylights and/or clerestory windows shall be required. However, since the space may be below grade, the requirement for transparent perimeter walls may be waived.
  - (2) If the specified access requirements cannot be met, they may be waived provided that the space is connected to the street level by a mechanical assist.

- (3) The atrium must be open to the public during hours of transit system operation.

#### IV. HUMAN SERVICES AND CHILD CARE

##### A. Human Services

###### 1. Intent

The intent of this bonus is to provide a wide range of potential locations for human services, so that they can be located near the population they serve.

###### 2. Eligible Human Services Uses

To be eligible for the human service bonus, all human service uses must be located in a downtown zone and must meet the definition of a human service use as set forth in the Land Use Code (Seattle Municipal Code 23.84.016).

###### 3. Bonus Options

The human service bonus may be earned in two ways, by electing the Performance Option or the Cash Option. Developers who choose the Performance Option may locate a human service use either on the same lot as the commercial project using the bonus or on a different downtown lot. Developers who choose the Cash Option shall make a contribution to the Downtown Health and Human Services Fund in lieu of providing a location for a human service use. Developers may use the bonus by using one or a combination of these options, provided that the maximum **bonusable area** per lot shall be limited as provided in paragraph 4.c.

###### 4. Bonusable Area

- a. When the Performance Option is selected by the developer, the minimum **Bonusable Area** per lot shall be one thousand square feet of gross floor area.
- b. When the Cash Option is selected by the developer, there shall be no minimum **bonusable area**.
- c. The maximum bonusable area per lot shall be ten thousand square feet of gross floor area.

###### 5. Cash Option

In all zones where a human service bonus is permitted, when the Cash Option is selected by the developer, the amount of the contribution shall be calculated by taking the additional gross floor area granted for the human service, dividing by the **bonus ratio** for new construction of human service space for the zone, and then multiplying by \$70 in DOC 1, DOC 2 and DRC zones; and \$50 in DMC and DMR zones. This dollar figure is based on the approximate cost of providing an unfinished space for a human service.

## EXAMPLE:

A developer in a DOC2 zone elects the Cash Option to acquire 45,000 square feet of additional commercial space in the project.

- Step 1. The amount of additional floor area granted in the DOC2 zone for the human service bonus = 45,000 square feet.
- Step 2. The **bonus ratio** = 9.0 (from the Land Use Code).
- Step 3. Amount of contribution = 45,000 square feet divided by 9.0 and multiplied by \$70 = \$350,000.

## 6. Performance Option

- a. If the Performance Option is selected by the developer, human service uses may be provided in a new or existing building on the lot where the additional bonused floor area is used by the commercial project or on another lot in a downtown zone. When the human service use is permitted to be in a different downtown zone from the project earning the bonus, an adjusted development cost ratio shall be calculated by dividing the development cost per square foot of human service space in the zone where it is provided by the development cost per square foot for the same construction type in the zone where the project using the bonus floor area is located.

	Development Costs	
	<u>New Construction</u>	<u>Existing Space</u>
DOC1, DOC2, AND DRC zones	\$70 per square foot	\$35 per square foot
All other downtown zones	\$50 per square foot	\$35 per square foot

The appropriate development cost per square foot is then multiplied by the appropriate adjusted **bonus ratio** in the Human Services Bonus Ratio chart on the following page, based on the zone and type of construction.

## EXAMPLE:

A developer in a DOC1 zone elects the Performance Option by providing 5,000 square feet of human service space in a new structure in a DMC zone.

- Step 1. The adjusted **bonus ratio** is calculated as follows:
- The development cost for providing new human service space in DMC zones is \$50 per square foot.
  - The ratio of the development cost for the human service in DMC zones to the development cost in DOC1 zones is \$50 per square foot/\$70 per square foot = 0.714

- Step 2. Adjusted development cost ratio multiplied by the human service **bonus ratio** determines floor area granted:  $(0.714) \times (7.0) = 4.998$ ; rounded to the nearest tenth = 5.0.
- Step 3. The amount of additional floor area granted in the DOC1 zone for the human service space =  $(5,000 \text{ square feet}) \times (5.0) = 25,000$  square feet.

HUMAN SERVICES BONUS RATIOS*		
Project Location <u>Zone</u>	New <u>Construction</u>	Existing <u>Space</u>
DOC1	7.0	3.5
DOC2	9.0	4.5
DRC	3.5	2.0
DMC	6.0	3.0
DMR	4.5	2.5

\*Ratios from Land Use Code

b. Signage

The location of the human service space in a multi-tenant building shall be marked with signage in the building directory, if any, and/or adjacent to the principal entrance to the space in the same manner as signage for other tenants in the building.

c. Conditions of Lease

- (1) The developer shall secure at least a three-year lease with the provider of the human service before a temporary Certificate of Occupancy for the project using the bonus is issued.
- (2) The developer shall furnish at a minimum the ceilings, walls, flooring and utility connections for the space.
- (3) The human service provider shall not be charged rent or any building space-related fees. The human service providers shall be responsible for utilities, liability and property insurance, cleaning of the space and maintenance of the space in excess of routine building maintenance.

## 7. Time Commitment

- a. All projects completed under the Human Service Bonus Program must be committed to providing space for a human service provider rent-free as set forth in section 6c.
- b. Developer obligations regarding rent and retaining the human service space in the building shall be controlled by a Development Agreement secured through a covenant or other suitable legal mechanism acceptable to the City. Disputes over costs shall be reported to the Department of Housing and Human Services (DHHS).
- c. The Development Agreement shall permit the developer to relocate the human service use to another downtown site or to lease the space to a different human service provider which meets the human service bonus program criteria; provided that the relocation or replacement is first approved by the Director of DHHS and the Development Agreement is modified in accordance with the approval granted by DHHS.

## 8. Buy-Out Provision

- a. All projects completed under the Human Services Bonus Program must be committed to providing the service for at least five years. If after five years it is determined by the Directors of DHHS and DCLU that the operation of the human service(s) in the space is no longer feasible or desirable, the developer may exercise a buy-out option.
- b. The requirement in the Development Agreement that the space for the human service provider be set aside rent-free for such use may be lifted by exercising a buy-out option at any time after five years. The terms and conditions of the buy-out shall be set forth in the Development Agreement, provided that the human service provider is given at least six months advance notice. This buy-out will allow the space to be used for any legal use and the rent to rise to the market rate. The buy-out funds will be paid to the Downtown Health and Human Service Fund.c. The amount of the buy-out shall be equal to the amount of the payment that would have been required if the developer had elected the Cash Option at the time the Master Use Permit was issued for the commercial project using the additional bonused floor area, increased by the percentage increase in the Consumer Price Index for the Seattle area from the date of issuance of the Master Use Permit to the date on which the buy-out funds are paid.

## 9. Application Process

- a. All human service bonus proposals must be approved by DHHS prior to issuance of the Master Use Permit. DHHS staff is available to help developers understand and work with these Human Service Bonus Program Rules. DHHS staff is also available to help link commercial developers

with human service providers to facilitate the selection of the Performance Option and the location of human service providers downtown. Developers are encouraged to contact DHHS early in the development process to make maximum use of Human Service Bonus Program benefits and features.

- b. The DHHS review and approval process consists of an early pre-approval of a human service bonus proposal, the final approval of the human service bonus proposal, and its linkage with the commercial project.
- c. The DHHS review for pre-approval will involve three elements: 1) qualification of the human service provider as eligible for the bonus program; 2) a calculation of the proposed square footage for the human service use; and 3) a statement regarding status of site control, if any. The purpose of this review is to qualify the human service provider for the human service bonus program. A letter of review will be written stating that, based upon the documents submitted, the human service provider is eligible for **bonus credits**. The **bonus ratio** will depend upon the zone of the commercial project receiving the bonus.
- d. Application to DHHS for pre-approval may be made by a human service provider prior to linkage with a commercial project.
- e. Final DHHS approval will include all three elements listed above plus review of the human service provider's lease, the Development Agreement, and any other legal agreements creating a linkage between the human service provider and the commercial project.

#### 10. Timing and Performance Guarantees

- a. At the time the DCLU letter listing proposed public benefit features is issued for the commercial project, the **bonus ratio** will be established and the space designated if using the Performance Option.
- b. If the Cash Option is selected, payment shall be made to the Downtown Health and Human Services Fund prior to issuance of the building permit. If the Performance Option is selected, until a Certificate of Occupancy has been issued for the human service space, security in the amount of the cash contribution that would be required if the Cash Option had been selected, plus two years interest at the rate of a two-year Treasury Bill, shall be provided. This security shall be a bond, irrevocable letter of credit, cash deposit or other form acceptable to DHHS. This security shall remain in place until the Certificate of Occupancy is issued for the human service use.
- c. Funds may be contributed by the commercial developer to construct or improve the human service space prior to construction of the commercial project to a maximum amount, as approved by DHHS. The amount of the security posted by the commercial developer may be reduced in amounts

equal to these contributions as they are made, as approved by DHHS. Funds remaining as security after the human service space has received the Certificate of Occupancy shall be released to the commercial developer.

- d. All human service space provided under the Performance Option must be completed within six months of issuance of the first Certificate of Occupancy for the commercial project.

## B. Child Care

### 1. Intent

The intent of the child care bonus is to provide a wide range of potential locations for child care centers for children which serve downtown residents and/or employees. The center shall meet the definition of a child care center as defined in the Land Use Code (SMC 23.84.018 - Institutions).

2. The child care center may be provided either on the same lot as the project using the bonus or on a different downtown lot.

### 3. Bonusable area

- a. The minimum **bonusable area** per lot shall be one thousand square feet of interior gross floor area.
- b. The maximum **bonusable area** per lot shall be ten thousand square feet, provided that after 3,000 square feet, the **bonus ratio** shall be the same as that for the human services use locating in the same zone as the project using the added gross floor area.
- c. All exterior play areas approved by the State Department of Social and Health Services shall be eligible for a bonus, provided that the space is not already part of another bonused public open space.

### 4. Clientele - Basic Standards

- a. Each facility shall accept clients from the general public; however, a portion of the child care spaces may be reserved for people working in the building where the facility is located.
- b. The child care center shall provide services at rates affordable to the range of income levels represented in the downtown workforce provided that at least 20% of the spaces must be reserved for low-income families (defined as at or below 80% of the medium income of the Seattle Standard Metropolitan Statistical Area [SMSA]).
- c. Each facility shall show how the low-income client goal will be met. Methods to meet the goal shall include:

- (1) Accepting clients who participate in City, State or Federal day care subsidy reimbursement programs, such as programs funded through the State Department of Social and Health Services (DSHS) and the Seattle Department of Housing and Human Services; and/or
  - (2) Utilizing a sliding fee scale which provides variable payment rates based upon family size and income; and/or
  - (3) Providing a subsidy to low-income households equivalent to 1 or 2 above.
- d. Exceptions to the above requirements may be granted on a case-by-case basis by the Director of DCLU based upon the recommendation of the Director of DHHS.

5. Leasing of space - Basic Standards

- a. The developer shall secure at least a three-year lease with the operator of the child care center before any Certificate of Occupancy for the project using the bonus is issued.
- b. The developer shall finish the space with ceilings, walls, flooring, utility connections and other improvements as required by the Seattle Building Code and the State Department of Social and Health Services to occupy as a child care center.
- c. Any additional improvements beyond the minimum requirements may be provided either by the developer or the child care center operator, as specified in the lease agreement.
- d. The child care center shall not be charged rent or any building space-related fees. The operator shall be responsible for utilities, liability and property insurance, cleaning of the space, and maintenance of the facility in excess of routine building maintenance. Disputes over costs shall be reported to DHHS.

6. Provision of child care off-site - Basic Standards

Space for child care may be provided in a new or existing structure not on the lot where the additional floor area is used, provided the following standards are met in addition to those listed above:

- a. When the child care is located in a different downtown zone, an adjusted development cost ratio shall be calculated by dividing the development cost per square foot of child care space in the zone where it is provided by the development cost per square foot for the same construction type in the zone where the project using the bonus floor area is located. This figure is then multiplied by the **bonus ratio** for the same construction type for the

zone where the project using the bonus floor area is located, and the product is rounded to the nearest tenth. This figure is used to determine the amount of floor area earned through the child care bonus. In no case shall the adjusted ratio be higher than the ratio for the zone in which the project is located. (See example.)

- b. Developer obligations regarding rent and retaining the child care space in the building shall be controlled by a Development Agreement secured through a covenant or other suitable legal mechanism acceptable to the City. Disputes over costs shall be reported to the Department of Housing and Human Services.
- c. The Development Agreement shall permit the developer to relocate the child care center to another downtown site or to lease the space to a different child care operator provided that the relocation or replacement is first approved by Director of Housing and Human Services (DHHS) and the Development Agreement is modified in accordance with the approval granted by DHHS.

#### 7. Cost Figures and Bonus Ratios

	Development Costs	
	<u>New Construction</u>	<u>Existing Space</u>
DOC1, DOC2, AND DRC zones	\$125 per square foot	\$65 per square foot
All other downtown zones	\$105 per square foot	\$65 per square foot

CHILD CARE SERVICES BONUS RATIOS*		
Project Location <u>Zone</u>	<u>New Construction</u>	<u>Existing Space</u>
DOC1	12.5	6.5
DOC2	16.0	8.0
DRC	6.5	3.5
DMC	11.0	5.5
DMR	8.0	4.0

\*Ratios from Land Use Code

## EXAMPLE:

A developer in a DOC1 zone seeks a floor area bonus by providing 3,000 square feet of child care space in an existing building in a DMC zone.

The adjusted **bonus ratio** is calculated as follows:

Step 1. The development cost of providing the child care space in an existing building in the DMC zone is \$65 per square foot.

Step 2. The ratio of the development cost for the child care space in DMC zones to the development cost in DOC1 zones = \$65 per square foot/\$65 per square foot = 1.0.

Step 3. The adjusted development cost ratio is multiplied by the child care **bonus ratio** to determine the adjusted **bonus ratio** = (1.0) x (6.5) = 6.5.

Step 4. The amount of additional floor area received = (3,000 square feet) x (6.5) = 19,500 square feet.

## 7. DHHS Application Process

- a. All child care bonus proposals must be approved by the Department of Housing and Human Services (DHHS). DHHS staff is available to help developers understand and use this Rule. DHHS staff is also available to help link commercial developers with child care operators downtown. Developers are encouraged to contact DHHS early in the development process to make maximum use of the Child Care Bonus Program benefits and features.
- b. Final approval by DHHS will include review of the child care operator's lease, the Development Agreement, and any other legal agreements creating a linkage between the child care operator and the commercial project.

## 8. Timing and Performance Guarantees

- a. At the time the bonus authorization letter is issued for the commercial project, the **bonus ratio** will be established.
- b. All child care space provided to obtain this floor area bonus must be completed within six months of the issuance of the first Certificate of Occupancy for the commercial project.

## 9. Buy-Out Provisions

- a. All projects completed under this Child Care Bonus Program must be committed to providing child care services as specified for at least 3 years. If after 3 years it is determined by the Directors of DHHS and DCLU that

the operation of a child care center in the space is no longer feasible or desirable the developer may exercise a buy-out option.

- b. The requirement in the Development Agreement that the space for the child care operator be set aside rent free may be lifted by exercising a buy-out option at any time after 3 years. The terms and conditions of the buy-out shall be set forth in the Development Agreements, provided that the child care operator is given at least six months' advance notice. This buy-out will allow the space to be used for any legal use and the rent to rise to the market rate. The buy-out funds will be paid to the Downtown Health and Human Service Fund.
- c. The amount of the buy-out shall be calculated by taking the additional square footage of commercial floor area granted for the child care bonus, dividing by the **bonus ratio** for new construction in the zone where the project using the bonus space is located, and multiplying by \$125 in DOC1, DOC2, and DRC zones and \$105 in DMC and DMR zones. This figure is based on the approximate cost of providing an unfinished space for child care. This figure shall be increased by the percentage increase in the Consumer Price Index (CPI) for the Seattle area from the date of issuance of the initial Certificate of Occupancy for the project receiving the bonused floor area to the date on which the buy-outs funds are paid.

Example:

A developer in a DOC2 zone received 20,000 square feet of bonus space for providing child care space in an existing building in a DMR zone for 3 years and would now like to exercise the buy-out option:

The amount of the buy-out is calculated as follows:

Step 1. The square footage of the commercial floor area granted for the bonus is 20,000 square feet.

Step 2. The **bonus ratio** for new construction in a DOC2 zone is 16.0.

Step 3. The amount of the buy-out contribution is:

$$\frac{20,000 \text{ sq. ft.} \times \$125}{16} = \$156,250 + \% \text{ increase based on CPI}$$

## V. DOWNTOWN HOUSING BONUS PROGRAM

### A. Intent

The intent of the Downtown Housing Bonus Program is to preserve and construct housing units affordable to low and low-moderate income households. The housing bonus may be granted for the production of housing through new construction, rehabilitation of vacant residential buildings, and/or the conversion of commercial buildings to residential use. Eligible housing may be rental units or limited equity cooperative units. Mixed-income and mixed-use developments, including those combining housing with retail or office space, are eligible for the housing bonus.

The Downtown Housing Bonus Program is administered by the Seattle Department of Housing and Human Services (DHHS), Housing and Community Services Division. DHHS administers the program according to this Rule and the applicable provisions of the Downtown Land Use Code, S.M.C. Chapter 23.49. The housing bonus is granted by the Seattle Department of Construction and Land Use (DCLU) upon a finding by the Director of DHHS that the proposed development satisfies this Rule.

### B. Program Options and Location Restrictions

The Downtown Housing Bonus Program allows commercial developers to increase the permitted floor area ratio (FAR) and add commercial square footage by earning housing **bonus credits** through either the Cash Option or the Production Option (hereafter Housing Bonus), and by purchasing development rights through the Transfer of Development Rights System (hereafter **TDR** System).

Commercial developers with projects located in DOC-1, DOC-2 and DMC zones may earn housing **bonus credits** through a cash contribution (the Cash Option), actual production or direct subsidy of housing (the Production Option) and may purchase **TDRs** to increase commercial square footage up to the allowable FAR. Commercial sites located in the DMR zone and those parts of the DRC zone listed on Map IV-A in the Downtown Chapter of the Land Use Code may use the Cash and Production options but are not eligible to use **TDRs**.

Housing developers may create housing **bonus credits** from housing constructed or rehabilitated in any downtown zone for transfer to commercial projects in any eligible downtown zone. However, **TDRs** may not be transferred from **low-income housing** in the PMM, DH-1 and DH-2 zones. **TDRs** may be applied only to commercial projects located in the DOC-1, DOC-2 and DMC zones.

### C. Cash and Production Options (Housing Bonus)

#### 1. Cash Option

##### a. General Requirements

Commercial developers may choose to make a cash contribution to earn housing **bonus credits** in lieu of actual production or direct subsidy of housing units (Production Option). The cash contribution may be made either to a DHHS-approved housing fund or to a DHHS-approved non-profit housing developer.

b. Cash Option Security Requirements

Commercial developers shall provide DHHS with a security instrument equal to the amount of cash contribution required to permit construction of the desired additional gross commercial square feet. Security instruments, such as an irrevocable Letter of Credit (LOC) or cash deposit, shall be delivered to DHHS or placed in a restricted escrow account acceptable to DHHS on or before the date the building permit is issued by DCLU. The security requirement is a condition for issuance of the building permit. DHHS may draw on the security instrument when the final Certificate of Occupancy for the commercial project is issued by DCLU.

c. Bonus Values

If the cash option is chosen, the following bonus values shall be used to determine the principal amount of the cash contribution required for commercial development rights earned through the housing bonus:

<u>ZONE</u>	<u>BONUS VALUE</u>
DOC-1	\$20/gross commercial square foot
DRC	\$20/gross commercial square foot
DOC-2	\$13/gross commercial square foot
DMR	\$13/gross commercial square foot
DMC	\$13/gross commercial square foot

Bonus values may periodically be calculated by DHHS.

d. Cash Option Application Process

Commercial developers exercising the cash option must include a Housing Bonus Application as part of the application for a Master Use Permit (MUP). Final approval of the application is a condition for issuance of the building permit.

2. Production Option

a. Production Alternatives

Commercial developers may earn housing **bonus credits** for the direct production of low and low-moderate income housing. In lieu of direct housing production, commercial developers may also directly subsidize the cost of low and low-moderate income housing by purchasing **bonus credits** from one or more housing developers participating in the Housing Bonus production option. At least one-half of the **bonus credits** earned for each commercial project must be earned from **low-income housing** units.

Housing developers may create bonus credits through the Housing Bonus program by creating low and low-moderate income housing units according to the requirements of this Rule. At least one-half of the **bonus credits** must be produced from **low-income housing** units.

b. **Location Requirements**

Commercial projects must be located in DOC-1, DOC-2, DMC, DMR zones or that portion of the DRC zone shown on Map IV-A in the Downtown Chapter of the Land Use Code. Housing may be located on the same site as the commercial development or at another location in any downtown zone.

c. **Bonusable Area**

The eligible **bonusable area** is calculated from the residential square footage which is attributable to low and low-moderate income housing units including exterior floor area such as decks and patios not used in common, hallways, lobbies, storage, mechanical spaces and other accessory spaces. Where accessory spaces serve both residential and commercial units or serve residential units housing different income levels, such space must be pro-rated for purposes of **bonusable area** computations.

Housing units must meet the definition of a dwelling unit as described in the Seattle Building Code.

Waiver of this dwelling unit requirement may be made by DHHS, with the concurrence of DCLU, based on demonstrated housing need and marketability of smaller units.

d. **Affordability**

Housing units eligible to generate housing **bonus credits** must be affordable to low and low-moderate income households for a period of twenty (20) years from the date the Certificate of Occupancy is issued for the housing project. Low-income household means any household whose total income is less than 50% of the Seattle-Everett Standard Metropolitan Statistical Area (SMSA) median income. Low-moderate income household means any household whose total income is between fifty percent (50%) and eighty percent (80%) of the median income for comparably sized households in the SMSA as defined by the U.S. Department of Housing and Urban Development (HUD).

e. **Rent Levels**

**Low-income housing** means any housing unit rented to a low-income household at rents not to exceed thirty percent (30%) of fifty percent (50%) of the SMSA median income for comparably sized households. Low-moderate income housing means any housing unit rented to a low-

moderate income household at rents not to exceed thirty percent (30%) of eighty percent (80%) of the median income for comparably sized households in the SMSA. Allowable rent levels must include a utility allowance as established periodically by the Seattle Housing Authority (SHA). Further detail on allowable rent levels is available from DHHS.

f. Schedule of **Bonus Ratios**

DHHS has developed and will periodically update a Schedule of **Bonus Ratios** for various unit types and income levels. The **Bonus Ratios** represent the ratio of bonused commercial space to the housing space produced. The **Bonus Ratios** are used to determine the amount of gross commercial square feet available based on the type of housing produced and which income groups will be served by the development.

The prototypical project models for rehabilitation and new construction establish the required housing subsidy per net residential square foot. The **Bonus Ratio** is equal to the required housing subsidy divided by the Bonus Value for the zone where the commercial project is located.

Following is the Schedule of **Bonus Ratios**. These **Bonus Ratios** may be applied only when no other **public subsidies** have been or will be applied to the housing development.

### SCHEDULE OF BONUS RATIOS

<u>Income Range</u>	<u>Subsidy/Net Sq. Ft.</u>	<u>Bonus Ratios</u>	
		DOC-1 DRC	DOC-2 DMC DMR*
<u>Substantial Rehabilitation</u>			
0-30%	\$115	5.8	8.8
30-50%	104	5.2	8.0
50-80%	70	3.5	5.4
<u>New Construction - Concrete Base, Wood Frame</u>			
0-30%	100	5.0	7.7
30-50%	80	4.0	6.2
50-80%	46	2.3	3.5
<u>New Construction - Concrete Frame</u>			
0-30%	132	6.6	10.2
30-50%	113	5.7	8.7
50-80%	78	3.9	6.0
<u>New Construction - Wood Frame</u>			
0-30%	101	5.1	7.8
30-50%	73	3.7	5.6
50-80%	37	1.9	2.8

\* For the DMR zone: when the housing option described in SMC Section 23.49.164C is used, the **Bonus Ratio** shall be six.

g. Subsidy Review

The subsidy review process will be used when public subsidies in addition to the housing bonus or TDR System have been or will be applied to the housing development. The subsidy review process is used to determine whether a financing gap exists between other debt financing, subsidy sources and normal developer equity and the amount the project costs to build. The financing gap identified by DHHS is used to calculate the applicable Bonus Ratio or the amount of TDRs that may be sold and the amount of subsidy allowable under the Program.

DHHS will adjust the calculation process as necessary to reflect changes in market conditions. For purposes of the subsidy review, other public subsidy includes, but is not limited to, the following:

- Tax Exempt Bond Financing
- Low Income Housing Tax Credits
- **TDRs** (sale or lease of)
- Federal loans or grants
- City of Seattle housing loans or grants
- State of Washington Housing Trust Funds.

h. Cash Buyout

Developers or owners of bonused housing may exercise a buyout option any time after ten years from the date of the Certificate of Acceptance for the housing. The cost of the buyout would be equal to the actual market cost, at the time of the buyout, to provide the same number of units of comparable, affordable, habitable, replacement housing, subject to DHHS approval.

The actual amount of the cash buyout will be determined by DHHS.

i. Replacement Housing

In lieu of a cash buyout, developers may directly provide comparable replacement housing for the same number of low and low-moderate income households for the remainder of the housing bonus obligation subject to DHHS approval. The replacement housing must be located within the following boundaries:

- Mercer Street to the North
- Broadway, Cherry, 14th and Rainier to the East
- Dearborn Street to the South
- Puget Sound to the West

A map of the replacement housing area is available from DHHS.

j. Performance Guarantees and Time of Performance

(i) Commercial Developers

Commercial developers must provide DHHS with an acceptable security instrument, such as an LOC or cash deposit, on or before the date the building permit for the commercial project is issued by DCLU. DCLU will not issue the building permit unless there is notification from DHHS that the security requirements for the Production Option have been satisfied. The amount of the security instrument shall be determined by the requirements of the Cash Option described in this Rule.

The commercial developer has three (3) years from the date of the issuance of the building permit to satisfy the bonus obligation through the Production Option, or if eligible, to purchase development rights under the **TDR System**. If the housing bonus obligation is not satisfied on the third anniversary of the issuance of the building permit, DHHS may draw on the security instrument in accordance with the Cash Option of this Rule.

(ii) Housing Developers

Housing developers, including commercial developers directly producing housing, must execute a Housing Performance Agreement with DHHS on or before the date the building permit is issued for the housing project in order to participate in the Housing Bonus program. The Housing Performance Agreement guarantees the production of low and low-moderate income housing in exchange for housing **bonus credits**. The number of **bonus credits** earned is determined by the Schedule of **Bonus Ratios** unless a subsidy review is required.

Housing developers must apply housing **bonus credits** to a commercial project with a MUP in an eligible zone within three (3) years from the date the building permit for the housing project is issued. On the third (3rd) anniversary of the date the building permit was issued, unobligated **bonus credits** may no longer be used to increase commercial square footage.

k. Production Option Application Process

Housing developers (including commercial developers directly producing housing) must submit a preliminary application in the form prescribed by DHHS as part of the application for the MUP for the housing project. The final application is made as part of the building permit application. DHHS project approval is a condition for issuance of the building permit. When construction is complete, DHHS may issue a Certificate of Acceptance on or after the date the Certificate of Occupancy is issued. All program requirements must be met and the building must be constructed according to the DHHS-approved plans and specifications in order to receive a Certificate of Acceptance.

## D. Program Standards/General Conditions

### 1. Earned **Bonus Credits**

**Bonus credits** are earned on the date DHHS receives and accepts the security instrument under the Cash Option or on the date DHHS receives and accepts a security instrument under the Production Option.

2. New construction, rehabilitation and conversion of structures for use as low and low-moderate income housing as part of the Downtown Housing Bonus Program may not result in involuntary, permanent displacement of low and low-moderate income households without compensation for the cost of relocation. The displacement policy applies to those existing occupants who have been in residence for thirty days or more.
3. Housing developments must demonstrate a minimum twenty (20) year economic life including evidence of financial feasibility acceptable to DHHS.
4. Commercial and housing developers participating in the Downtown Housing Bonus Program must comply with this Rule unless specific waivers for good cause are granted by the Director of DHHS.
5. Rents and occupancy of bonused housing units shall be restricted through the recording of Use Covenants and a Deed of Trust against the title to the property requiring the units to serve low and low-moderate income households for a period of twenty (20) years. Restrictions will be imposed on bonused units requiring periodic and at least annual, certification of tenant income eligibility and rent level eligibility.
6. Security instruments and contracts must be approved by DHHS prior to execution.
7. Developers using the Production Option or **TDR** System must certify that no other **public subsidies** have been or will be applied to the housing development without the prior written approval of the Director of DHHS.

## E. DMR Housing Bonus - Special Conditions

Housing bonus shall be granted only under the Cash Option or for the Production Option in a new structure, or in a rehabilitated structure or portion of a rehabilitated structure which was not in residential use as of January 1, 1983. **TDRs** may not be purchased in lieu of Housing Bonus.

The housing development and the commercial project must both be located in a DMR zone. The housing must be maintained as low and low-moderate income housing for a period of twenty years from the date of the Certificate of Occupancy.

## F. TDR Program

### 1. Intent

The purpose of the Transfer of Development Rights Program (**TDR Program**) is the preservation of existing, occupied or vacant, **low-income housing** located in the downtown area. Commercial developers may purchase development rights under the **TDR Program** to increase commercial square footage up to the maximum allowable FAR. Development rights may be purchased directly from owners of **low-income housing** or from the City's **TDR Bank**.

Owners of existing housing participating in the **TDR Program** may sell development rights to commercial developers participating in the **TDR Program** or they may sell to the City's **TDR Bank**. Housing owners must agree to rehabilitate and maintain the building in **low-income housing** use for twenty (20) years from the date of the sale of development rights.

### 2. TDR Bank

A Transfer of Development Rights (**TDR**) Bank has been created by the City of Seattle to purchase development rights for sale to commercial developers with projects in the DOC-1, DOC-2, and DMC zones. The **TDR Bank** is administered by DHHS's Housing and Community Services Division. Purchase and sale of development rights through the **TDR Bank** is subject to the requirements of this Rule. Housing eligible for the **TDR Program** may not necessarily meet the eligibility requirements for purchase of rights by the **TDR Bank**. The **TDR Bank** guidelines govern the selection of **TDR Bank** transactions.

### 3. Eligible Sites

#### a. Receiving Sites

- (i) Commercial Projects (**Receiving sites**) located in the DOC-1, DOC-2 and DMC zones may purchase development rights under the **TDR Program** to reach the maximum allowable FAR for the zone.
- (ii) Commercial sites located in the DMR or that portion of the DRC described on Map IV-A in the Downtown Chapter of the Land Use Code are not eligible to participate in the **TDR Program**.

#### b. Sending Sites

- (i) Development rights eligible for transfer under the **TDR Program** may originate from **low-income housing (Sending Sites)** located in any downtown zone except the PMM, DH-1 and DH-2 zones.
- (ii) New housing and converted commercial space in residential use are eligible **sending sites**.

- (iii) Housing projects which will be rehabilitated to City of Seattle Building Code standards are also eligible **sending sites**.
- (iv) Only rental housing and limited equity cooperatives are eligible under the **TDR** Program Condominium and stock option cooperatives are not eligible.
- (v) The site from which development rights are sold must have at least one (1) FAR of floor area in **low-income housing** use in order to transfer development rights.
- (vi) Buildings constructed or rehabilitated under the Housing Bonus Program or assisted with other public funds shall not be eligible for the **TDR** Program except under the Subsidy Review provisions of this Rule.

#### 4. Available Development Rights

- a. For the purposes of the **TDR** Program, the maximum development rights available for transfer are equal to the difference between the gross floor area of any structures on the **sending sites** and the values listed below:

<u><b>Zone</b></u>	<u><b>FAR</b></u>
DOC-1	5
DOC-2	4
DMC-240	8
All other eligible zones including DRC	6

- b. Accessory surface parking areas up to a maximum area of one-quarter (1/4) of the footprint of the structure on the **sending site** may be included in the **sending site** area for purposes of calculating the amount of development rights which may be transferred.

#### 5. Sale of Development Rights

- a. The value of development rights shall be negotiated by the owners or lessees of the sending and **receiving sites**.
- b. Where DHHS is providing additional funding for construction or rehabilitation of housing on the **sending site**, DHHS shall review the negotiated price of development rights to ensure that full potential of the sale of development rights is realized prior to execution of any agreement between the owners or lessees or the sending and **receiving sites**.
- c. Partial sales of development rights from **sending sites** shall be permitted on a case-by-case basis provided the **sending site** project meets the requirements of this Rule.

- d. Excess, unused development rights may be applied to another eligible commercial project developed by the purchaser or may be sold to another commercial developer. No time limit exists for excess **TDR** transactions. However, written notification to DHHS at the time of transfer of excess development rights is required.
- e. Nonprofit owners of **low-income housing** are required to use excess **TDR** proceeds not used for rehabilitation or stabilization of the **sending site**, for other downtown **low-income housing** rehabilitation or stabilization.
- f. Sale of development rights lasts for the life of the project on the **receiving site**.

#### 6. **Receiving Site** Special Conditions

- a. The **receiving site** participants shall be the fee title owner(s) of the **receiving site** or a party with a legally enforceable ownership or leasehold interest in the property acting with the legally documented approval of the fee title owner(s).
- b. Commercial developers must have a **receiving site** designated in order to purchase development rights under the **TDR** Program. Unused development rights may be resold for another eligible commercial project provided the new receiving zone has a base commercial FAR equal to or less than the base commercial FAR of the original **receiving site** zone.
- c. Commercial developers using the **TDR** Program must provide security in the form of an irrevocable Letter of Credit or cash deposit acceptable to DHHS. This security shall be provided prior to issuance of the building permit. This security shall be in the amount of the value of the gross commercial square feet as determined by the Bonus Values set forth in this Rule. The TDR purchaser shall have no obligation for the provision of low-income housing beyond providing the required security (Ord. 116513). The commercial developer shall have three years from the date of the issuance of the MUP to provide contractual evidence acceptable to DHHS that development rights are available to be transferred from **low-income housing** in an amount equal to the gross commercial square feet eligible for the **TDR** Program. The security shall be forfeited if the housing project is not built or rehabilitated or if the housing project does not receive a Certificate of Acceptance from DHHS. In the case of forfeiture, DHHS shall not draw on the security instrument until the Certificate of Occupancy is issued for the commercial project.

#### 7. **Sending Site** Special Conditions

- a. The **sending site** participant shall be the fee title owner(s) of the **sending site** or a party with a legally enforceable ownership or leasehold interest in

the property acting with the legally documented approval of the fee title owner(s).

- b. Building owners must agree to provide at least fifty percent (50%) of total floor area of the **sending site** structure or the floor area in **low-income housing** use as of January 1, 1983, whichever is greater, as low income housing units. Space which serves low income housing units, such as hallways, stairways, and other shared common spaces shall be counted toward the floor area in **low-income housing** use.
- c. Building owners must provide evidence, satisfactory to DHHS, of compliance with City of Seattle Land Use and Building Codes to ensure a twenty (20) year economic life for the units. **Sending site** owners must also provide evidence of project operating feasibility.
- d. Rent and income levels shall be established in accordance with HUD income and rent levels. Building owners shall be required to report annually on rent and income levels of low-income tenants.
- e. Units accounting for at least fifty (50) percent of the building floor area or the floor area in **low-income housing** use as of January 1, 1983, whichever is greater, must have rents under thirty percent (30%) of fifty percent (50%) of the SMSA median household income. Tenants residing in these units may have incomes at initial occupancy of no more than fifty percent (50%) of the SMSA median.
- f. In mixed-use buildings, the entire building including commercial space, shall meet all applicable City codes.
- g. Consolidation of smaller housing units or elimination of units shall not be permitted during the 20 year commitment period. Exceptions may be made by DHHS on a case-by-case basis.
- h. Rent increases excluding the cost of utilities are limited to the annual percentage increase in the Consumer Price Index (CPI) or seven percent (7%) per year, whichever is less for all units restricted to low-income occupancy under the **TDR** Program. Appeals for relief may be made to the Director of DHHS.
- i. **Sending site** owners must enter into a **TDR** Agreement with DHHS committing the owner to complete the construction or rehabilitation work as negotiated and to maintain the rents at levels affordable to low income households for twenty (20) years. The **TDR** Agreement is a condition precedent to the valid sale of development rights to a commercial developer under the **TDR** Program. Escrow of required funds will occur according to the terms of the **TDR** Agreement.

- j. The **TDR** Agreement shall be secured for twenty years from the date of the Certificate of Acceptance through a Deed of Trust and Use Covenants running with the land and by a security instrument acceptable to DHHS during construction or rehabilitation. The **TDR** Agreement shall include a copy of the completed and recorded real estate excise tax affidavit, pursuant to the provisions of WAC Chapter 458-61.
- k. **Sending site** owners must provide evidence that the full value of the property, and the improvements to the property under the **TDR** Program are insured.
- l. **Sending site** owners must complete the **sending site** building according to the standards prescribed in the **TDR** Agreement within two years of the sale of the transferred development rights. These terms shall be included in the security instrument posted for the **sending site** prior to sale of development rights.

#### 8. **TDR** Program Application Process

Application for the use of **TDRs** by commercial developers must be made as part of the MUP application. DHHS approval is a condition for issuance of the **Final Building Permit**. The application process is complete when DHHS issues a Certificate of Acceptance for the housing units on the **sending site**. Further detail on **TDR** Program application requirements is available from DHHS.

### G. Combined Lot Development

Section 23.49.130 of the Seattle Municipal Code, "Combined Lot Development in DMC zones" allows lots with lot lines within 400 feet of each other to be combined for the purpose of calculating the permitted gross floor area, when projects include **moderate-income** and/or **low-income housing** according to the following provisions:

- 1. At least one (1) of the lots shall be developed with a new or rehabilitated structure that contains housing. Existing structures shall either be nonresidential prior to rehabilitation, or if residential, shall have been unoccupied since January 1, 1983.
- 2. When housing is provided in a new structure, at least half of the units shall be **moderate-income housing** at initial sale or rental.
- 3. When an existing structure is rehabilitated, twenty-five percent (25%) of the units shall be **low-income housing** unless the Director determines that the twenty-five percent (25%) low-income requirement is infeasible. All of the units in the structure that are not low-income shall be **moderate-income housing**, at the time of initial sale or rental.

Initial annual housing costs (rents or mortgage payments, plus basic utilities and any other costs of occupancy such as association dues or assessments) for the **moderate-income housing** units shall not exceed thirty percent (30%) of 150 percent of the Seattle-Everett SMSA median income as established periodically by HUD ("Median Income") according to the maximum household size that may

reasonably be expected to occupy each unit. The **moderate-income housing** and **low-income housing** (if required) must be certified and accepted by DHHS in order to satisfy the requirements of this Rule.

## VI. GUIDELINES FOR TRANSFER OF DEVELOPMENT RIGHTS FROM LANDMARK STRUCTURES.

### A. Intent

The Transfer of Development Rights from Seattle landmarks is intended to encourage the preservation, rehabilitation and restoration of buildings that contribute to the City's architectural and historic heritage. Requirements which must be met before the **Landmark Transfer of Development Rights** may be authorized are described below.

### B. Eligibility

All designated Seattle landmarks pursuant to SMC 25.12 located in DOC1, DOC2, DRC and those portions of DMC zones south of Virginia Street are eligible for the Landmark Transfer of Development Rights (TDR) program.

### C. Application Process

Proposals that include development rights transfer from a Seattle landmark require a Certificate of Approval from the Seattle Landmarks Preservation Board. The City Historic Preservation Officer is available to help parties understand the approval process. Developers are encouraged to contact the City Historic Preservation Officer early in the development process to make maximum use of the Transfer of Development Rights program.

1. The receiving lot or sending lot owner as applicant applies for Landmark TDR review at the DCLU Permit Application Center and makes a fee deposit. A project number is assigned. NOTE: If a Landmark Performing Arts Theater (LPAT) has qualified for transfer of priority TDR as provided in Section 23.49.033D, then no other Landmark TDR may be used until the priority TDR has been used or there is a linkage agreement for its use.
2. The application for **Landmark TDR** review may be made before a Master Use Permit (MUP) application is filed, or they both may be filed at the same time. If the MUP application is filed at the same time, or any time during **Landmark TDR** review, the regular MUP procedure will be followed except that no final decision on the MUP will take place until a letter of **Landmark TDR** authorization has been signed (Step 9).
3. No public notice will be given at the time an applicant files for **Landmark TDR** review, unless a MUP application is filed at the same time.
4. The application shall include schematic drawings showing the proposed rehabilitation and/or restoration of the landmark, if applicable. The proposed rehabilitation and/or restoration shall include all features requiring rehabilitation or restoration

that are controlled by the Landmarks Preservation Board pursuant to the Controls and Incentives agreement.

5. A Land Use Specialist in the Land Use Review Section will be assigned as a project manager for the **Landmark TDR** review.
6. The City Historic Preservation Officer, a Land Use Specialist and a Zoning Plans Examiner assigned to the project meet with owners of the receiving lot and sending lot to discuss the project. The first hour of this meeting will be charged at the hourly rate for one person. Subsequent meeting time and time spent reviewing drawings will be billed at the hourly rate for each DCLU staff person.
7. When a **Landmark TDR** is proposed, the City Historic Preservation Office will work with the sending lot owner prior to submission to the Landmarks Preservation Board for a Certificate of Approval to determine the conditions under which the **TDR** will be granted.
8. The sending lot owner shall apply for a Certificate of Approval for any rehabilitation and/or restoration of the landmark in accordance with the requirements of Section 12 of the Seattle Landmarks Preservation Ordinance (Seattle Municipal Code Sections 25.12.670 through 25.12.790). The Landmarks Preservation Board will act on the request within 30 days of receipt of a completed application. The **TDR** legal agreement must be reviewed and approved by the Law Department and by the City Historic Preservation officer prior to the issuance of a letter of **TDR** authorization.
9. The DCLU project manager writes a letter of **TDR** authorization which will include the action of the Landmarks Preservation Board.
10. Applicant files MUP application, or processing is completed if MUP application has already been filed.
11. If a **Landmark TDR** is sought, the receiving lot applicant will be required to provide security for the completion of any required rehabilitation and/or restoration of the landmark. The purchaser of the TDR shall have no obligation for the preservation of the landmark beyond providing such security (Ord. 116513). The **TDR** sale must be completed, and any funds necessary for landmark rehabilitation and/or restoration transferred to a Department of Housing and Human Services (DHHS) -approved escrow account, before the shoring or first building permit is issued for the receiving site. The Landmarks Preservation Board may modify this requirement to allow for a phased rehabilitation program and/or phased occupancy for the landmark building. DHHS and the Landmarks Preservation Board will require only those funds determined necessary to rehabilitate and/or restore the landmark to be transferred to the escrow account before the shoring or first building permit is issued.

If the Landmarks Preservation Board makes the determination that no rehabilitation and/or restoration is needed, the proceeds from the sale of the development rights are not subject to regulation. Any changes to the legal agreement

referred to in #8 above must be approved by the Landmarks Preservation Board, the Law Department and the Department of Construction and Land Use.

#### D. Property Owners

The sending lot participant shall be the fee title owner(s) of the sending lot property, or a party with a legally enforceable ownership or leasehold interest in the property acting with the approval of the fee title owner(s). Approval of the fee title owner(s) must be legally documented.

### VII. LANDMARK PERFORMING ARTS THEATER TDR PROGRAM

#### A. Program Intent

##### 1. Preservation of Landmark Theaters

**Landmark performing arts theaters** in downtown Seattle make a unique and irreplaceable contribution to the physical environment, culture and quality of life of the city. The purpose of the **Landmark Performing Arts Theater (LPAT) TDR** Program is to provide incentives for owners of downtown performing arts theaters which are also designated landmarks to rehabilitate, maintain and preserve both the landmark structure(s) and the theater use.

##### 2. Priority TDR Sites

- a. Under the **Landmark Performing Arts Theater** Program, LPATs may qualify for priority to sell TDRs (**Priority TDRs**) over other landmark structures eligible to sell TDRs if the LPAT owner agrees for a specified period to sell the TDRs at a price approved by DHHS based upon appraised value. The conditions for **Priority TDR** contained in SMC 23.49.033 and this Rule must be met. If **Priority TDR**, as approved by the Director of DHHS, is available for purchase at the time either a Master Use Permit application or the first building permit application is filed with DCLU for a potential **Receiving Site** project, all available **Priority TDRs** must be used to increase FAR before any other **Landmark TDR** may be used to increase FAR.
- b. Proceeds from the sale of **Priority TDRs** must be used to finance the rehabilitation of LPATs or for reimbursing other sources of funds actually used for such purpose.

##### 3. Landmark Theater/Housing TDR Sites

- a. **Landmark performing arts theaters**, as defined in SMC 23.84.024, with housing provided on-site and/or replaced off-site, also may qualify to sell TDR to commercial projects located in DOC-1, DOC-2 or the DMC, for use in the top tier, whether or not the **Sending Site** also qualifies for **Priority TDR**. This is an exception to the general rule that a **Sending Site**

must have more than 50% of developed space in low-income housing use in order to transfer **TDRs** in the top tier. **Sending Sites** must meet all requirements for transfer of **Landmark TDR** and the applicable requirements of this Section. Qualifying **Sending Site** may also apply for benefits available through the Housing Bonus Program and/or the **Landmark Performing Arts Theater** Bonus Program.

- b. Proceeds from the sale of **TDRs** from **Landmark Theater/Housing TDR sites** shall be used to the extent necessary to finance the acquisition, rehabilitation and maintenance of the landmark structure in which the theater is located and to finance the cost of providing **low-income housing** either on-site or off-site.

## **B. Program Administration**

DHHS administers the program for **Priority TDRs** and for **Landmark Theater/Housing TDR sites** (SMC 23.84.024) in conjunction with DCLU and the Landmarks Preservation Board (**LPB**). The **LPB**, in conjunction with DCLU, administers the **Landmark TDR Program** (see Section VI) for landmarks designated in accordance with SMC 25.12.350-.660, including landmark theaters which are not participating in the **Landmark Performing Arts Theater** Program.

## **C. Eligible Sites**

### **1. Receiving Sites**

Commercial projects, such as office buildings, hotels, retail developments, and mixed-use developments, which are located in the DOC-1, DOC-2, and DMC zones may be eligible **Receiving Sites** for use of **Priority Landmark Theater TDR** and/or **TDRs** from **Landmark Theater/Housing TDR Sites**. **TDRs** purchased from **Sending Sites** qualifying as **Landmark Theater/Housing TDR Sites** may be used in all tiers.

### **2. Sending Sites**

- a. **TDR Sending Sites** may be located in the following downtown zones: DOC-1, DOC-2, DRC, and those portions of the DMC south of Virginia Street.
- b. Prior to any valid sale of **TDRs**, the **Sending Site** must be designated as a landmark by the City of Seattle pursuant to SMC 25.12.350-660 and must have received a Certificate of Approval for the rehabilitation of the landmark pursuant to SMC 25.12.670-835 or have received **LPB** approval of the rehabilitation plans in conjunction with adoption of a Controls and Incentives Agreement pursuant to SMC 25.12.490-660. A **Landmark Theater/Housing TDR Site** not requiring rehabilitation of any historic features, as determined by the **LPB**, would not require a Certificate of Approval from the **LPB**, but would not be eligible for **Priority TDR**.
- c. Prior to any transfer of **TDR** under this Section, a **Sending Site** must also satisfy the definition of an LPAT under SMC 23.84.024.

- d. Not all available **TDRs** necessarily will qualify as **Priority TDR**. DHHS will determine the amount of **Priority TDR** based upon subsidy review. Non-priority **TDR** may be sold under the **Landmark TDR** Program.
- e. Prior to any transfer of **TDR** for use in the top **tier** under this Section, the **Sending Site** must satisfy the definition of a **Landmark Theater/Housing TDR Site**, contained in SMC 23.84.024, and the applicable requirements of this Rule must be satisfied.
- f. Publicly-owned **LPATs** may be eligible **Sending Sites**.

#### **D. Other Eligible Purchasers**

- 1. City of Seattle's **TDR Bank**
- 2. Any person or corporate entity may purchase **Priority TDR** whether or not a future **Receiving Site** has been identified or an application for a permit to develop downtown property has been filed with DCLU. Subject to laws in effect on the date a **Receiving Site** project is vested, any purchaser or transferee holding title to such **TDRs** has the right to use the **TDRs** to obtain FAR above the **base FAR** for the **Receiving Site** to the same extent as if the **TDRs** had been purchased on the vesting date.

#### **E. Calculation and Valuation of TDRs**

##### **1. Sending Site Zones**

For the following zones, the maximum amount of **landmark TDRs** is calculated based upon the maximum transferable FAR standards for each **Sending Site** zone:

<b>Zone</b>	<b>Maximum Transferable FAR</b>
DOC-1	5
DOC-2	4
DMC-240'	8
DRC	2.5
DMC-below 240'	6

##### **2. Calculation of TDRs**

- a. In general, the amount of available TDRs is calculated by multiplying the lot area by the factor in the above table for the Sending Site zone, and deducting any floor area on the site that is not exempt from TDR calculations in the zone where the Sending Site is located, as determined by DCLU. No deduction of gross floor area occupied by the theater itself, bonusable accessory space, or housing on a Landmark Theater/Housing TDR site that meets the requirements for low-income housing TDR is required. Gross floor area of other uses may not be exempt.

- b. The amount of **Priority TDRs** available for sale shall be determined by the Director of DHHS, in consultation with DCLU, the Department of Neighborhoods and the **LPB** based upon an application submitted in accordance with SMC 23.49.033 and this Rule. Basic requirements are that the **Sending Site** qualify as an **LPAT**, have a rehabilitation plan approved by the **LPB** and, as determined by DHHS, a sale of **TDR** is necessary to fill a financing gap for the rehabilitation of the **Sending Site** and the replacement of housing as applicable, taking into account all other available sources of financing and tax incentives, and to permit the **Sending Site** owner to have a reasonable expectation of reasonable economic return on the owner's investment, as determined by DHHS.

Standards for determining a reasonable economic return on the owner's investment may be based, to the extent feasible, upon comparable rates of return for other performing arts theater facilities in Seattle, King, Pierce and Snohomish Counties and/or other data provided by the **Sending Site** owner establishing reasonable justification for the rate of return proposed by the **Sending Site** owner.

- c. Not all **TDRs** on **Landmark Theater/Housing TDR sites** may be available for sale. Where subsidy review applies under the applicable Section of the Land Use Code, for example, due to the grant of government subsidies for the **Sending Site** project, the amount of **TDRs** which may be sold, if any, will be determined by DHHS, based upon a subsidy review in accordance with this Rule.

### 3. Price of **Landmark TDRs**

The price of **Priority TDRs** and **TDRs** from **Landmark Theater/Housing TDR sites** generally is set by voluntary negotiations between the owners of **Sending** and **Receiving Sites** or the **Sending Site** and another purchaser. However, in order to qualify for **Priority TDR**, the **Sending Site** owner must agree to sell to any eligible purchaser at a price approved by DHHS based on appraised value of the **TDRs** during a term approved by DHHS, not to exceed one year from the date of the initial offering.

## F. **Receiving Site** Special Conditions

### 1. Legal Interest Required

**Receiving Site** participants shall be the fee title owner(s) or the holder(s) of a legally enforceable recorded ownership or leasehold interest in the **Receiving Site** acting with the documented approval of the fee title owners.

### 2. Performance Guarantees

- a. If the purchase of **Priority TDRs**, **TDRs** from a **Landmark Theater/Housing TDR Site**, and/or **TDRs** from the TDR Bank has been completed with DHHS approval in accordance with this Rule, any necessary rehabilitation of the **Sending Site** has been completed and approved by the **LPB**,

DHHS and DCLU, and no additional bonus or **TDRs** are required to achieve the desired FAR, then no security or other performance guarantees will be required from the **Receiving Site** as conditions to issuance of permits by DCLU.

- b. When **LPAT TDRs** are to be purchased and the rehabilitation of the **LPAT** is not completed prior to issuance of the shoring and excavation portion of the building permit for the **Receiving Site** project (or the first building permit if no shoring and excavation permit is required), security must be posted with the City as beneficiary in an amount equal to the gross commercial floor area as measured in square feet multiplied by the bonus value for the **Receiving Site** zone. Funds may be drawn from the security by the owner of the theater during the course of the rehabilitation work with prior approval of the DHHS Director.

The following table shows bonus value in terms of dollars per gross commercial square foot (GCSF) for each downtown zone:

<u>Receiving Site Zone</u>	<u>Bonus Value</u>
DOC-1	\$20/GCSF
DOC-2	\$13/GCSF
DMC	\$13/GCSF

- c. When **TDRs** are to be purchased from a **Landmark Theater/Housing TDR Site** for which rehabilitation or housing replacement will be required, security requirements shall be the same as for (b) above. If **TDRs** are purchased from a **Landmark Theater/Housing TDR Site** that requires no rehabilitation or replacement of housing and the **Sending Site** has been accepted as eligible for **TDR** sale by DHHS and the **LPB**, no security shall be required from the **Receiving Site**. However, **TDRs** must be purchased from either the **Sending Site** or an interim purchaser such as the **TDR Bank**, prior to issuance of the **Final Building Permit** for a **Receiving Site**.
- d. If the owner of the **Sending Site** fails to proceed with or complete the required rehabilitation and/or the housing replacement if applicable, the use of **Priority TDRs** or **TDRs** from **Landmark Theater/Housing TDR Sites** by the **Receiving Site** shall not be impaired. In such cases the City shall utilize the security posted by the **Receiving Site** for the preservation of landmarks (or for replacement housing, if applicable) in such a manner as the City Council shall determine.
- e. The transfer of **TDRs** to the **Receiving Site** must be completed prior to the issuance of the **final building permit** for the structure or portion thereof using the additional floor area. If the **TDRs** are transferred but the **Receiving Site** owner does not build a structure using such FAR and if any related MUP or building permit is cancelled, then to the extent provided in the agreement between the owners of the **Sending Site** and **Receiving Site**, the unused **TDRs** may revert to the **Sending Site** and the owner of

the **Receiving Site** may become entitled to receive any portion of the security that DHHS determines is not required to complete the rehabilitation of the **landmark performing arts theater** or to discharge any other obligations to the City for which the security was provided.

#### G. Sending Site Special Condition

##### 1. Ownership or Possessory Interest Required

The **Sending Site** participant(s) shall be the fee title owner(s) of the **Sending Site** or a party with a legally enforceable ownership or leasehold interest acting with the documented approval of the fee title owner(s).

##### 2. Easement Required

**Sending Site** participants shall grant an easement in favor of the City to permit DHHS inspection of the property and records at reasonable times and upon reasonable notice.

##### 3. Performance Agreement/DHHS Certificate of Acceptance

- a. All eligible **Sending Sites** must execute a **TDR Performance Agreement** with the City prior to issuance of the **Final Building Permit** for the **Sending Site**, if applicable, but in any case prior to either executing a linkage agreement with an eligible **Receiving Site** or other eligible purchaser or closing of a sale of **TDRs** to the **TDR Bank**. DHHS may issue a Certificate of Acceptance upon a finding by the Director that the **Sending Site** project has been rehabilitated, if applicable, in accordance with DHHS-approved plans and specifications, and all other material requirement for program participation have been met.
- b. For both **Priority TDR** transactions and **Landmark Theater/Housing TDR** transactions, the **TDR Performance Agreement** shall run from the date of issuance of the Certificate of Acceptance for the **Sending Site**. There shall be Use Covenants running with the land recorded against the **Sending Site** consistent with the terms of the **TDR Performance Agreement**.

##### 4. **LPB** Certificate of Approval Required

**Sending Site** participants must comply with the controls on features of the property imposed pursuant to its designating ordinance and must ensure that the building is rehabilitated to at least a forty-year life, as determined by the **LPB**, and the **Sending Site** must obtain a Certificate of Approval issued by the **LPB**. DHHS shall not issue a Certificate of Acceptance for any **Sending Site** which has not received an **LPB** Certificate of Approval.

##### 5. Maintenance of Landmark Structure and Theater Use Required

- a. **Sending Site** owners must agree to maintain the structure on terms approved by the **LPB** for a period of at least forty (40) years and to maintain

the primary use of the theater portion of the structure as a performing arts theater for at least forty (40) years and for so long thereafter as any of the interior features of the theater portion of the structure remain subject to controls under a designating ordinance pursuant to SMC Chapter 25.12, unless after the minimum forty (40) year period the owner demonstrates to the LPB that a change in use is required to allow the owner a sufficient economic return under the standards then applicable to proceedings for removal or modification of such controls.

- b. Subject to the terms of an executed **LPB** Controls and Incentives agreement, a partial purchase of **TDRs** by the **TDR** Bank may allow a shorter period of commitment.
- c. An annual report shall be submitted to DCLU by the **sending site** owner to verify that the **LPAT** property is being used as a landmark theater and to describe the number of days when live performances take place, number of days not open, and number of days when other types of entertainment were provided.

#### 6. Replacement Housing Required for **Priority TDRs**

- a. No sale of **Priority TDR** may be approved by the Director of DHHS if elimination of existing low-income and/or low- moderate income housing is included in the plan of rehabilitation for the **LPAT** unless the **LPAT** owner executes a voluntary agreement, to the satisfaction of DHHS, that guarantees the replacement of the housing directly by the **LPAT** owner or by a third party.
- b. Replacement housing for purposes of **Priority TDR** not purchased for or eligible for use in the top bonus **tier** shall mean replacement of the amount of net residential square feet lost due to implementation of the **LPAT** rehabilitation plan with as many units affordable to low and/or low-moderate income households respectively as the numbers of units being eliminated that were occupied by **low-income** and low-moderate income households, respectively at any time within one year prior to the filing of an application for **Priority TDR**. A unit occupied by both a **low-income** and a **moderate income** household within the last year shall be replaced by a low-income unit. Replacement units shall be of comparable size to the eliminated units. Housing rented at rents affordable to low and/or low-moderate income households shall be presumed to be occupied by low or low-moderate income households respectively unless the owner demonstrates otherwise to the satisfaction of DHHS.
- c. Residential units not occupied within the last year by households with incomes at or below 80% of Standard Metropolitan Statistical Area (SMSA) median income, as adjusted for household size, are not subject to the replacement housing requirements of this Section.

- d. Replacement housing may be new construction, rehabilitation, or preservation of existing housing that would otherwise be converted to a use other than **low-income** or low-moderate income housing, as determined by DHHS.
- e. Replacement housing may be located in any downtown zone or elsewhere within the **CHAS** downtown Special Objective Area in effect on the date of execution of the voluntary mitigation agreement.
- f. Construction, rehabilitation or preservation of the replacement housing shall be subject to a Performance Agreement, to the satisfaction of DHHS, executed by or on behalf of the **LPAT** owner with DHHS. A Memorandum of Use Covenants and Easement shall be recorded against the title to the replacement housing to ensure that the replacement housing is provided for a period of twenty (20) years from the date of issuance of a Certificate of Acceptance for the replacement housing by DHHS, subject to termination of the Use Covenants through a buyout provision in the Performance Agreement if permitted by DHHS.

7. Replacement Housing Required for **Landmark Theater/Housing TDR Sites**

- a. If one or more housing units on the **Sending Site** were occupied or habitable on January 1, 1990, no sale of **TDRs** from a **Landmark Theater/Housing TDR Site** for use in the top tier shall be approved by the Director of DHHS unless either:
  - (i) the equivalent of all floor area on the **Sending Site** that was in use as housing or habitable at any time since January 1, 1990 is committed to **low-income housing** use in accordance with the terms for **TDR** transfers from **low-income housing TDR sites** pursuant to SMC Chapter 23.49 and this Rule; or
  - (ii) the **Sending Site** owner (or a third party acting on behalf of the **Sending Site** owner) enters into a voluntary agreement to the satisfaction of DHHS guaranteeing the replacement housing off-site in an amount equal to the difference between all floor area in residential use or habitable for residential use at any time since January 1, 1990 and the amount of residential floor area committed to **low-income housing** use on the terms required in subsection (a) (i) above.
- b. If no housing units were occupied or habitable on the **Sending Site** on January 1, 1990, then at least 1 FAR of the **Sending Site** shall be committed to **low-income housing** use on the terms required to sale of **TDRs** from **low-income housing TDR sites** pursuant to Chapter 23.49 SMC and this Rule.

- c. Replacement housing may be new construction, substantial rehabilitation, or preservation of existing housing which would otherwise be converted to a use other than low income housing, as determined by DHHS.
- d. Replacement housing may be located in any downtown zone or elsewhere within the **CHAS** downtown Special Objectives Area in effect on the date of execution of the voluntary mitigation agreement.
- e. Construction, rehabilitation or preservation of the replacement housing shall be subject to a Performance Agreement, to the satisfaction of DHHS, executed by or on behalf of the **LPAT** owner with DHHS. A Memorandum of Use Covenants and Easement shall be recorded against the title to the replacement housing to ensure that the replacement housing is provided for a period of twenty (20) years from the date of issuance of a Certificate of Acceptance for the replacement housing by DHHS, subject to termination of the Use Covenants through a buy-out provision in the Performance Agreement, if permitted by DHHS.
- f. Any replacement housing project proposed to satisfy the requirements for a **Landmark Theater/Housing TDR Site** must have received DHHS approval prior to start of construction or rehabilitation. The replacement housing requirements shall be considered satisfied when the **Sending Site** has posted a letter of credit or cash escrow acceptable to DHHS.

#### 8. Lienholder Consent Required

Prior written consent of all holders of encumbrances on the sending lot is required for execution of a deed by the **Sending site** or execution of a **TDR** agreement between the fee owners of the **Sending** and **Receiving Sites**, unless waived by DHHS for good cause.

### H. Subsidy Review

Subsidy review applies to **Priority TDR** sales and to sale of **TDRs** from **Landmark Theater/Housing TDR sites** which are utilizing other bonuses or **public subsidies** in addition to **TDR** proceeds. The Director of DHHS may limit the amount of public subsidies available to the **LPAT** project based upon the results of the subsidy review to ensure that the total of all subsidies used does not exceed the financing gap for the project, as determined by DHHS.

### I. Application Requirements

Potential purchasers including owners of potential **Receiving Sites** may notify DCLU and DHHS in writing of the intention to participate in the **Landmark Performing Arts Theater TDR Program**. However, such notice must be made not later than the date of issuance of a shoring and excavation permit for a potential **Receiving Site**.

**Sending Site** applicants for participation in the **Landmark Performing Arts Theater TDR Program** must submit information prescribed by DHHS in order for DHHS to determine compliance with the requirements of this Rule. **Sending Site** owners may choose to use the forms provided by DHHS to complete the application process. Whether or not DHHS forms are used, DHHS reserves the right to require additional

information and documentation in order to verify eligibility, the amount of the financing gap, architectural quality and other material facts. See requirements C, 1-9 in Section VI.

## J. Timing of Application

### 1. Potential Purchasers

Potential **Receiving Site** developers engaged in new construction, substantial rehabilitation or conversion projects may apply for participation in the **Landmark Performing Arts Theater TDR** Program at any time by written notification to DHHS and DCLU.

### 2. Property for which rehabilitation is not required

Owners of existing **landmark performing arts theaters** which do not require substantial rehabilitation and who are applying as **Landmark Theater/Housing TDR Sites** may apply for participation at any time.

### 3. Property for which rehabilitation is necessary

Applicants for **Priority TDR** and applicants for **Landmark Theater/Housing TDR Sites** requiring substantial rehabilitation must apply no later than the date of application for a building permit for the project.

### 4. DHHS Response

Within ninety (90) days of submission of an application which is complete for purposes of final project approval, as determined by DHHS, DHHS shall either notify the applicant of acceptance and the amount of **TDRs** which can be sold by the project, and the amount of **TDRs** which qualify for Priority, or notify the applicant of deficiencies in the project proposal and/or of denial of the project.

## K. Waivers

With the exception of the express requirements of the Land Use Code and those administered by the **LPB**, the Director of DHHS may waive the requirements of this Section for good cause upon a showing of impracticability or financial necessity by the **TDR** purchaser and/or the **Sending Site** owner.

*For more information on Landmark Performing Arts Theater TDR Program, please contact:*

*Director, Housing and Community Services Division  
Seattle Department of Housing and Human Services  
618 Second Avenue, 8th Floor  
Seattle, Washington 98104  
(206) 684-0347 (phone) (206) 233-7117 (fax)*

*or*

*The Landmarks Preservation Board  
c/o The Department of Neighborhoods  
700 - 3rd Avenue, 4th floor  
Seattle, Washington 98104  
(206) 684-0228*

## **VIII. REVIEW PROCEDURES AND SUBMITTAL REQUIREMENTS**

**A. The items listed as General Public Benefit Features in Section III of this Rule, and the Child Care and Human Services bonuses listed in Section IV, shall be reviewed to insure that they meet the bonus review criteria under the following review process:**

1. The applicant is encouraged to schedule a pre-application conference, at which DCLU staff will review the proposed public benefit features. After this conference, the developer may request a letter from DCLU listing which proposed features may be used for the project. This letter does not confer DCLU approval of the design or exact location of the proposed public benefit features.
2. The application for the Master Use Permit for the project shall include schematic drawings showing how the public benefit feature will be incorporated into the building design or, if it is off-site, showing how it meets the criteria of this Rule.
3. Notice of the specific proposed public benefit features shall be included in the public notice of the project's application.
4. A Land Use Specialist in the Land Use Review Section will be assigned as a project manager for the review of the project and the proposed benefit features.
5. The Land Use Specialist and a Zoning Plans Examiner assigned to the project will meet with the applicant to discuss the project if all issues are not resolved at the pre-application phase of the project. The first hour of this meeting will be charged at the hourly rate for one person. Subsequent meetings and time spent reviewing drawings will be billed at the hourly rate for each DCLU staff person. Representatives of other City departments may attend the initial meeting or additional meetings, which may be scheduled as needed.
6. DCLU staff will review the drawings and calculations. For more complicated projects, an interdepartmental team may meet to discuss the project.
7. The analysis of how the public benefit features meet the criteria of this Rule will be included in the Master Use Permit decision. If there is a request to change a basic standard, the decision will describe the change, state a recommendation, and, if the change is permitted, list any additional conditions which are required.

### **B. Review of Council Conditional Use Public Benefit Features**

Major retail stores and performing arts theaters in the Downtown Retail Core zone qualify for a bonus if approved by the City Council. Council review shall be according to the Council Conditional Use process specified in the Land Use Code.

## IX. Glossary

These terms have the following meanings unless the context otherwise clearly requires.

**Affordable Housing:** For purposes of SMC 23.49.026A, affordable housing means housing designed and constructed so that it would reasonably be expected to be affordable to households with incomes at 150% of median income for the Seattle-Everett Standard Metropolitan Statistical Area, as determined by the U.S. Department of Housing and Urban Development. Housing is considered affordable if annual costs, including basic utilities, do not exceed 30% of gross annual household income. Affordable housing may be rental housing or owner-occupied housing, such as condominium units. In the case of condominium units, housing costs include mortgage or contract payments, association dues and assessments, and basic utilities.

**Base Floor Area Ratio (Base FAR):** The maximum square footage permitted to be built outright, expressed as a multiple of the lot area. "FAR" is defined as the ratio of the amount of gross floor area permitted in a structure and the area of the lot on which the structure is located (See SMC 23.84.012A).

**Bonusable Area or Space:** Space that is occupied by one or more public benefit features described in this Rule and that is determined by DCLU to satisfy requirements of the Land Use Code and this Rule such that a bonus for additional gross floor area may be granted.

**Bonus Credit:** One square foot of additional gross floor area allowed under the housing bonus provisions.

**Bonus Ratio:** Ratio of additional square feet granted per square foot of public benefit feature provided.

**CHAS:** The City's Comprehensive Housing Affordability Strategy is a policy document updated annually in accordance with federal law and published by DHHS.

**DHHS:** The Seattle Department of Housing and Human Services

**DON:** The Seattle Department of Neighborhoods

**Final Building Permit:** The final building permit in the phased building permit sequence. The permit is considered final if completion of authorized work will allow inspection for building occupancy.

**Green Street:** New name, adopted by Resolution 28682, for the public benefit feature formerly referred to as a street park.

**Landmark Performing Arts Theater (LPAT):** A structure that:

1. Contains space that was designed for use primarily as, or is suitable for use as, a performing arts theater;
2. Is located in one of the following downtown zones – DOC1, DOC2, DRC, or DMC;
3. Is a designated landmark under SMC Chapter 25.12;
4. Is subject to an ordinance establishing incentives and controls, or the owner of which shall agree, prior to the approval of any landmark theater priority TDR under Section 23.49.033 and prior to the issuance of any building permit for any structure receiving TDRs or an FAR bonus under any agreement with respect to such theater, to an incentives and controls agreement approved by the City Landmarks Board, which agreement may be conditioned with approval of such Board, on the approval of a specified amount of priority landmark TDR for the lot on which such theater is located and/or on the purchase, lease or option by the City or a third party of a certain amount of development rights from such a lot on specified terms;
5. Has, or will have upon completion of a proposed plan or rehabilitation, a minimum floor area devoted to performing arts theater space and accessory uses of at least 20,000 square feet;
6. Will be available, for the duration of any commitment made to quality for an FAR bonus or to transfer development rights from the lot, for live theater performances no fewer than 180 days per year.

**Landmark TDR:** Development rights eligible for transfer from one lot to another based on the landmark status of the improvements on the sending site, under Section 23.49.052, 23.49.072, 23.49.102, or 23.49.128, but does not include development rights that would be eligible for transfer based upon the status of the sending site as a low-income housing TDR site or Pioneer Square infill site.

**Landmark Theater/Housing TDR Site:** See the definition in SMC Section 23.84.024

**Low-Income Housing:** Any housing unit which is rented to a low-income household at rents not to exceed thirty percent of fifty percent of the median income for comparably sized households in the Seattle-Everett Standard Metropolitan Statistical Area as defined by the U.S. Department of Housing and Urban Development.

**Low-Income Housing TDR Site:** A lot meeting the following requirements:

1. The lot is located in any downtown zone except PMM, DH-1, and DH-2 zones;
2. Each structure on the lot shall have the greater of fifty percent of total gross floor area, or the gross floor area in use as low-income housing on January 1,

- 1983, committed to low-income housing use for a minimum of twenty years in accordance with the Public Benefit Features Rule;
3. The lot has gross floor area equivalent to at least one FAR committed to low-income housing use for a minimum of twenty years in accordance with the Public Benefit Features Rule; and
  4. The low-income housing commitment on the lot has been certified by the Director of Housing and Human Services as satisfying the Public Benefit Features Rule.

**LPB:** The Seattle Landmarks Preservation Board, established under SMC 25.12.

**Moderate-Income Housing:** Housing for which annual housing costs, including basic utilities, do not exceed 30 percent of 150 percent of median household income for the Seattle-Everett Standard Metropolitan Statistical Area, as determined by the U.S. Department of Housing and Urban Development, for the maximum household size that reasonably would occupy such housing.

**Priority Landmark Theater TDR (Priority TDR):** That portion of the development rights eligible for transfer from a landmark performing arts theater that the Directors of the Departments of Housing and Human Services, and Construction and Land Use have approved based upon an application by the owner and which the owner has committed to sell, lease, or option at a price approved by the Director of Housing and Human Services based upon appraised value.

**Public Subsidies:** Any form of contribution or subsidy to project development or operating costs which is issued or guaranteed by the federal government, State of Washington, public development authority, quasi-public agency, or by a unit of local government, including tax credits, or any contribution to project costs received as result of a bonus allowed under this Rule or the sale or transfer of development rights under this Rule.

**Receiving Site:** The site to which development rights may be transferred from a sending site.

**Sending Site:** The site from which development rights may be transferred to a receiving site.

**Tier:** A conceptual term for any of the ranges of potential gross floor area, in addition to Base FAR, that may be developed on a lot with the benefit of certain bonuses or TDRs, or both. In the Land Use Code, certain downtown zone sections contain a chart called "Floor Area Ratio" which specifies the Base FAR, the limits of each tier above the Base FAR, and the permitted use of bonuses and TDRs in each tier.

**Transferable Development Rights (TDR):** Rights to build a specific amount of square feet of gross floor area that may be transferred from a Sending Site to a Receiving Site, either directly or in some cases after an intermediate transfer to the City's TDR Bank or another party, under the Land Use Code and this Rule.